

11614 HOUSE RELEASE

**HB**

**123**



1 (15) Board of Pharmacy (AS 08.80.010) - June 30, 2010 [2005];

2 \* Sec. 4. AS 08.03.010(c)(17) is amended to read:

3 (17) Board of Professional Counselors (AS 08.29.010) - June 30, 2010  
4 [2005];

5 \* Sec. 5. AS 08.03.010(c)(18) is amended to read:

6 (18) Board of Psychologist and Psychological Associate Examiners  
7 (AS 08.86.010) - June 30, 2010 [2005];

8 \* Sec. 6. AS 08.03.010(c)(21) is amended to read:

9 (21) Board of Veterinary Examiners (AS 08.98.010) - June 30, 2009  
10 [2005].

11 \* Sec. 7. AS 08.86.150 is amended to read:

12 **Sec. 08.86.150. License by credentials.** A person who is licensed or certified  
as a psychologist by a licensing authority other than the state is entitled to be licensed  
in the state without examination if the person applies on the proper application form,  
submits proof of continued competence as required by regulation of the board, pays  
the credential review fee, and the person

(1) holds a doctoral degree with primary emphasis on psychology that  
satisfies the requirements of AS 08.86.130 and the examination and qualification  
requirements for the person's out-of-state license or certificate were essentially similar  
to or higher than the examination and qualification requirements for licensure under  
this chapter, [OR]

(2) is a diplomate in good standing of the American Board of  
Professional Psychology; or

(3) is certified or registered with a credentialing organization in  
psychology approved by the board in regulation and with requirements  
essentially similar to or higher than the requirements for licensure under this  
chapter

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

30 EXEMPTION FROM AS 44.66.050(e). Sections 1 - 6 of this Act are exempt from the  
31 provision of AS 44.66.050(e) that prohibits a bill from continuing the existence of more than

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Am # 112  
Go yllid  
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to make  
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no obj*

4/20/05  
Coghell  
move bill as amended  
no obj

4/20/05

24-LS0360X  
Mischel  
4/18/05

CS FOR HOUSE BILL NO. 123( )

IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

Coghell  
moved  
Back Object

BY

Offered:  
Referred:

Sponsor(s): HOUSE LABOR AND COMMERCE COMMITTEE

Y  
JC  
VK  
LM  
WR  
N  
BK  
EB  
Adopted

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to occupational licensing fees, fines, and penalties and to regulatory  
2 board fines; extending the termination dates of the Boards of Barbers and Hairdressers,  
3 Social Work Examiners, Pharmacy, Professional Counselors, Psychologist and  
4 Psychological Associate Examiners, and Veterinary Examiners; relating to an exemption  
5 that allows one bill to continue more than one board, commission, or agency program;  
6 and providing for an effective date."

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

8 \* Section 1. AS 08.01.065(c) is amended to read:

9 (c) Except as provided in (f) - (i) of this section, the department shall establish  
10 fee levels under (a) of this section so that the total amount of fees, together with the  
11 fines and penalties collected for an occupation, approximately equals the actual  
12 regulatory costs for the occupation. The department shall annually review each fee  
13 level to determine whether the regulatory costs of each occupation are approximately

1 equal to fee, fine, and penalty collections related to that occupation. If the review  
2 indicates that an occupation's fee, fine, and penalty collections and an occupation's  
3 regulatory costs are not approximately equal, the department shall calculate fee  
4 adjustments and adopt regulations under (a) of this section to implement the  
5 adjustments. In January of each year, the department shall report on all fee levels and  
6 revisions for the previous year under this subsection to the office of management and  
7 budget. If a board regulates an occupation covered by this chapter, the department  
8 shall consider the board's recommendations concerning the occupation's fee levels and  
9 regulatory costs before revising fee schedules to comply with this subsection. In this  
10 subsection, "regulatory costs" means costs of the department that are attributable to  
11 regulation of an occupation plus

12 (1) all expenses of the board that regulates the occupation if the board  
13 regulates only one occupation;

14 (2) the expenses of a board that are attributable to the occupation if the  
15 board regulates more than one occupation.

16 \* Sec. 2. AS 08.01.065(f) is amended to read:

17 (f) Notwithstanding (c) of this section, the department shall establish fee levels  
18 under (a) of this section so that the total amount of fees, fines, and penalties collected  
19 by the State Board of Registration for Architects, Engineers, and Land Surveyors  
20 approximately equals the total regulatory costs of the department and the board for all  
21 occupations regulated by the board. The department shall set the fee levels for the  
22 issuance and renewal of a certificate of registration issued under AS 08.48.211 so that  
23 the fee levels are the same for all occupations regulated by the board.

24 \* Sec. 3. AS 08.01.065(g) is amended to read:

25 (g) Notwithstanding (c) of this section, the department shall establish fee  
26 levels under (a) of this section so that the total amount of fees, fines, and penalties  
27 collected by the department for all occupations regulated under AS 08.11  
28 approximately equals the total regulatory costs of the department for all occupations  
29 regulated by the department under AS 08.11. The department shall set the fee levels  
30 for the issuance and renewal of licenses issued under AS 08.11 so that the fee levels  
31 are the same for all occupations regulated by the department under AS 08.11.

1 \* Sec. 4. AS 08.01.065(h) is amended to read:

2 (h) Notwithstanding (c) of this section, the department shall establish fee  
3 levels under (a) of this section so that the total amount of fees, fines, and penalties  
4 collected by the Board of Barbers and Hairdressers approximately equals the total  
5 regulatory costs of the department, the board, and the Department of Environmental  
6 Conservation for all occupations regulated by the board. For purposes of this  
7 subsection, the regulatory costs of the Department of Environmental Conservation for  
8 the occupations regulated by the board include the cost of preparing for and  
9 conducting disciplinary hearings under AS 08.01.075, the cost of inspections under  
10 AS 08.13.210(b), the cost of developing and adopting regulations under AS 44.46.020  
11 for barbershop, hairdressing, manicuring, esthetics, body piercing, ear piercing, and  
12 tattooing and permanent cosmetic coloring establishments, and the cost to the  
13 Department of Environmental Conservation of enforcing those regulations except for  
14 the enforcement costs relating to ear piercing establishments. The department shall set  
15 the fee levels for the issuance and renewal of a practitioner's license issued under  
16 AS 08.13.100 so that the license and license renewal fees are the same for all  
17 occupations regulated by the Board of Barbers and Hairdressers.

18 \* Sec. 5. AS 08.01.065(i) is amended to read:

19 (i) Notwithstanding (c) of this section, the department shall establish fee levels  
20 under (a) of this section so that the total amount of fees, fines, and penalties collected  
21 by the Department of Commerce, Community, and Economic Development for  
22 specialty contractors, home inspectors, and associate home inspectors approximately  
23 equals the total regulatory costs of the department for those three registration  
24 categories. The department shall set the fee levels for the issuance and renewal of a  
25 certificate of registration issued under AS 08.18 so that the fee levels are the same for  
26 all three of these registration categories and so that the fee level for a home inspector  
27 with a joint registration is not different from the fee level for a home inspector who  
28 does not have a joint registration. In this subsection, "joint registration" has the  
29 meaning given in AS 08.18.171.

30 \* Sec. 6. AS 08.01.075 is amended by adding a new subsection to read:

31 (g) A fine imposed and collected by a board under (a) of this section shall be

1           accounted for separately and may be appropriated by the legislature for the benefit and  
2           use of the board in carrying out the board's duties.

3   \* Sec. 7. AS 08.03.010(c)(4) is amended to read:

4                   (4) Board of Barbers and Hairdressers (AS 08.13.010) - June 30, 2011  
5           [2005];

6   \* Sec. 8. AS 08.03.010(c)(6) is amended to read:

7                   (6) Board of Social Work Examiners (AS 08.95.010) - June 30, 2010  
8           [2005];

9   \* Sec. 9. AS 08.03.010(c)(15) is amended to read:

10                   (15) Board of Pharmacy (AS 08.80.010) - June 30, 2010 [2005];

11   \* Sec. 10. AS 08.03.010(c)(17) is amended to read:

12                   (17) Board of Professional Counselors (AS 08.29.010) - June 30, 2010  
13           [2005];

14   \* Sec. 11. AS 08.03.010(c)(18) is amended to read:

15                   (18) Board of Psychologist and Psychological Associate Examiners  
16           (AS 08.86.010) - June 30, 2010 [2005];

17   \* Sec. 12. AS 08.03.010(c)(21) is amended to read:

18                   (21) Board of Veterinary Examiners (AS 08.98.010) - June 30, 2009  
19           [2005].

20   \* Sec. 13. AS 37.05.146(c)(24) is amended to read:

21                   (24) receipts of the Department of Commerce, Community, and  
22           Economic Development under AS 08.01.065 and from fines and penalties collected  
23           in licensing and disciplinary actions for occupations under AS 08.01.010  
24           [AS 08.01.065(a), (c), AND (f)];

25   \* Sec. 14. AS 08.95.920 is repealed.

26   \* Sec. 15. The uncodified law of the State of Alaska is amended by adding a new section to  
27   read:

28           EXEMPTION FROM AS 44.66.050(e). Sections 7 - 12 of this Act are exempt from  
29   the provision of AS 44.66.050(e) that prohibits a bill from continuing the existence of more  
30   than one board, commission, or agency program.

31   \* Sec. 16. This Act takes effect immediately under AS 01.10.070(c).

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: CSHB 123(L&C)  
 (H) Publish Date: 2/9/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Commerce  
 Title: Occupations Fee and Extension of Boards RDU: Occupational Licensing (117)  
 Component: Occupational Licensing  
 Sponsor: Labor and Commerce  
 Requester: House Labor and Commerce Component No: 2360

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

Note: Amounts do not include inflation unless otherwise noted below

| OPERATING EXPENDITURES | FY 2006    | FY 2007      | FY 2008      | FY 2009      | FY 2010      | FY 2011    |
|------------------------|------------|--------------|--------------|--------------|--------------|------------|
| Personal Services      | 0.0        | 333.7        | 333.7        | 333.7        | 333.7        |            |
| Travel                 | 0.0        | 36.5         | 36.5         | 36.5         | 36.5         |            |
| Contractual            | 0.0        | 115.6        | 115.6        | 115.6        | 115.6        |            |
| Supplies               | 0.0        | 0.4          | 0.4          | 0.4          | 0.4          |            |
| Equipment              | 0.0        | 0.0          | 0.0          | 0.0          | 0.0          |            |
| Land & Structures      |            |              |              |              |              |            |
| Grants & Claims        |            |              |              |              |              |            |
| Miscellaneous          |            |              |              |              |              |            |
| <b>TOTAL OPERATING</b> | <b>0.0</b> | <b>486.2</b> | <b>486.2</b> | <b>486.2</b> | <b>486.2</b> | <b>0.0</b> |

| CAPITAL EXPENDITURES              | FY 2006    | FY 2007      | FY 2008      | FY 2009      | FY 2010      | FY 2011    |
|-----------------------------------|------------|--------------|--------------|--------------|--------------|------------|
|                                   |            |              |              |              |              |            |
| <b>CHANGE IN REVENUES (1156 )</b> | <b>0.0</b> | <b>486.2</b> | <b>486.2</b> | <b>486.2</b> | <b>486.2</b> | <b>0.0</b> |

**FUND SOURCE** (Thousands of Dollars)

|   |            |              |              |              |              |            |
|---|------------|--------------|--------------|--------------|--------------|------------|
| 1002 Federal Receipts                   |            |              |              |              |              |            |
| 1003 GF Match                           |            |              |              |              |              |            |
| 1004 GF                                 |            |              |              |              |              |            |
| 1005 GF/Program Receipts                |            |              |              |              |              |            |
| 1037 GF/Mental Health                   |            |              |              |              |              |            |
| Other 1156 - Receipt Supported Services | 0.0        | 486.2        | 486.2        | 486.2        | 486.2        | 0.0        |
| <b>TOTAL</b>                            | <b>0.0</b> | <b>486.2</b> | <b>486.2</b> | <b>486.2</b> | <b>486.2</b> | <b>0.0</b> |

Estimate of any current year (FY2005) cost: 486.2  
 Check 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)

HB 123 allows fines and penalties collected by various occupations to be included with fee collections for the purpose of determining whether revenue collected approximately equals the total costs of regulation for an occupation or board.

The bill also extends the following Boards to June 30, 2009: Barbers and Hairdressers, Social Workers, Pharmacy, Professional Counselors, Psychology, and Veterinary. In accordance with AS 08.03.020, funding is extended one year following the termination date allowing the Boards to conclude their affairs. FY 2006 funding is included in the Operating Budget request. The costs shown for subsequent fiscal years reflect the direct costs included in the FY 2006 budget. The direct costs by board are shown on the attached page.

Prepared by: Jennifer Strickler, Administrative Manager Phone: (907) 465-2144  
 Division: Occupational Licensing Date/Time: 2/3/05 6:14 PM  
 Approved by: Edgar Blatchford, Commissioner Date: 2/3/2005  
 Agency: Commerce, Community and Economic Development

FISCAL NOTE #1

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

BILL NO. CSHB 123(L&C)

ANALYSIS CONTINUATION

DIRECT Expenses

|               | Barbers and<br>Hairdressers | Social<br>Workers | Pharmacy   | Professional<br>Counselors | Psychology | Veterinary | TOTAL      |
|---------------|-----------------------------|-------------------|------------|----------------------------|------------|------------|------------|
| Personal Svcs | 122,077.11                  | 33,827.27         | 73,370.00  | 33,902.01                  | 37,247.84  | 33,271.49  | 333,895.72 |
| Travel        | 5,724.95                    | 2,785.15          | 12,807.18  | 4,889.65                   | 7,425.37   | 2,856.80   | 36,489.10  |
| Contractual   | 34,760.13                   | 8,247.63          | 34,472.41  | 7,356.23                   | 23,623.41  | 7,138.79   | 115,598.60 |
| Commodities   | 172.03                      | 14.84             | 57.61      | 14.83                      | 12.48      | 153.47     | 425.26     |
| Equipment     | 0.00                        | 0.00              | 0.00       | 0.00                       | 0.00       | 0.00       | 0.00       |
|               | 162,734.22                  | 44,874.89         | 120,707.20 | 46,162.72                  | 68,309.10  | 43,420.55  | 486,208.68 |

The costs above reflect the FY04 Direct costs by Board and are included in the FY05 Budget and the Governor's FY06 operating budget request.

# Alaska State Legislature

## House of Representatives



Official Business

State Capitol  
Juneau, AK 99801-1182

### SPONSOR STATEMENT FOR CS HB 123

BY: Representative Tom Anderson

**TITLE: " An Act relating to occupational licensing fees and receipts; extending the termination dates of the Boards of Barbers and Hairdressers, Social Work Examiners, Pharmacy, Professional Counselors, Psychologist and Psychological Associate Examiners, and Veterinary Examiners; relating to an exemption that allows one bill to continue more than one board, commission, or agency program; and providing for an effective date."**

CS HB 123 extends the sunset for the boards of Barbers and Hairdressers, Social Work Examiners, Pharmacy, Professional Counselors, Psychologists and Psychological Associate Examiners and Veterinary Examiners. Each of these boards have been recommended by Legislative Audit for extension.

Additionally, CS HB 123 allows fines and penalties collected by various occupations to be included with fee collections for the purpose of determining whether revenue collected approximately equals the total costs of regulation for an occupation or board. This change codifies current practice and is included by request of the Division of Occupational Licensing

I would ask for your support on CS HB 123.

# Alaska State Legislature

## House of Representatives



Official Business

State Capitol  
Juneau, AK 99801-1182

### Sectional Analysis for CS HB 123 BY: Representative Tom Anderson

- Section 1-4. Amends the uncodified law of the State of Alaska to allow fines and penalties collected by various occupations to be included with fee collections for the purpose of determining whether revenue collected approximately equals the total costs of regulation for an occupation or board.
- Section 5. Extends the sunset of the Board of Barbers and Hairdressers to June 30, 2011.
- Section 6. Extends the sunset of the Board of Social Work Examiners to June 30, 2010.
- Section 7. Extends the sunset of the Board of Pharmacy to June 30, 2010.
- Section 8. Extends the sunset of the Board of Professional Counselors to June 30, 2010.
- Section 9. Extends the sunset of the Board of Psychologist and Psychological Associate Examiners to June 30, 2010.
- Section 10. Extends the sunset of the Board of Veterinary Examiners to June 30, 2009.
- Sections 11-12. Further amends statute to allow fines and penalties collected by various occupations to be included with fee collections for the purpose of determining whether revenue collected approximately equals the total costs of regulation for an occupation or board.
- Section 13. Allows the grouping of these five sunset extensions into one bill.

**HB**

**147**

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: HB 147  
 (H) Publish Date: 2/14/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Commerce  
 Title: Omnibus Insurance RDU: Insurance (116)  
 Component: Insurance Operations  
 Sponsor: Rules  
 Requester: By Request of the Governor Component No.: 354

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

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

| OPERATING EXPENDITURES | FY 2006     | FY 2007     | FY 2008     | FY 2009     | FY 2010     | FY 2011     |
|------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Personal Services      | 35.0        | 36.0        | 37.0        | 38.0        | 40.0        | 41.0        |
| Travel                 | 0.0         | 0.0         | 0.0         | 0.0         | 0.0         | 0.0         |
| Contractual            | 1.0         | 0.0         | 0.0         | 0.0         | 0.0         | 0.0         |
| Supplies               | 2.5         | 0.0         | 0.0         | 0.0         | 0.0         | 0.0         |
| Equipment              |             |             |             |             |             |             |
| Land & Structures      |             |             |             |             |             |             |
| Grants & Claims        |             |             |             |             |             |             |
| Miscellaneous          |             |             |             |             |             |             |
| <b>TOTAL OPERATING</b> | <b>38.5</b> | <b>36.0</b> | <b>37.0</b> | <b>38.0</b> | <b>40.0</b> | <b>41.0</b> |

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

|                               |  |  |  |  |  |  |
|-------------------------------|--|--|--|--|--|--|
| <b>CHANGE IN REVENUES ( )</b> |  |  |  |  |  |  |
|-------------------------------|--|--|--|--|--|--|

**FUND SOURCE** (Thousands of Dollars)

|  |             |             |             |             |             |             |
|--|-------------|-------------|-------------|-------------|-------------|-------------|
| 1002 Federal Receipts                  |             |             |             |             |             |             |
| 1003 GF Match                          |             |             |             |             |             |             |
| 1004 GF                                |             |             |             |             |             |             |
| 1005 GF/Program Receipts               | 38.5        | 36.0        | 37.0        | 38.0        | 40.0        | 41.0        |
| 1037 GF/Men's Health                   |             |             |             |             |             |             |
| Other (Specify Type—Do not abbreviate) |             |             |             |             |             |             |
| <b>TOTAL</b>                           | <b>38.5</b> | <b>36.0</b> | <b>37.0</b> | <b>38.0</b> | <b>40.0</b> | <b>41.0</b> |

Estimate of any current year (FY2005) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

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

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

A Consumer Services Specialist will need to be added to respond to additional inquiries from the public on the union health trust fund provisions.

Prepared by: Linda S. Hall, Director Phone: 907.269.7900  
 Division: Insurance Date/Time: 2/14/05 9:48 AM  
 Approved by: Edgar Blatchford, Commissioner Date: 2/14/2005  
 Agency: Commerce, Community & Economic Development

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
 Bill Version: CSFR 147(L&C)  
 (H) Publish Date: 4/1/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Commerce  
 Title Omnibus Insurance RDU Insurance (116)  
 Component Insurance  
 Sponsor Rules by request of the Governor  
 Requester House Labor & Commerce Component No. 354

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

Note: Amounts do not include inflation unless otherwise noted below

| OPERATING EXPENDITURES | FY 2006    | FY 2007    | FY 2008    | FY 2009    | FY 2010    | FY 2011    |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services      | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        |
| Travel                 |            |            |            |            |            |            |
| Contractual            |            |            |            |            |            |            |
| Supplies               |            |            |            |            |            |            |
| Equipment              |            |            |            |            |            |            |
| Land & Structures      |            |            |            |            |            |            |
| Grants & Claims        |            |            |            |            |            |            |
| Miscellaneous          |            |            |            |            |            |            |
| <b>TOTAL OPERATING</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

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

|                               |  |  |  |  |  |  |
|-------------------------------|--|--|--|--|--|--|
| <b>CHANGE IN REVENUES ( )</b> |  |  |  |  |  |  |
|-------------------------------|--|--|--|--|--|--|

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (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 does not have a fiscal impact on the operations of the division since there are no union health trust sections in the current version.

Prepared by: Linda S. Hall, Director Phone 907.269.7900  
 Division: Insurance Date/Time 3/29/05 5:58 PM  
 Approved by: Edgar Blatchford, Commissioner Date 3/29/2005  
 Agency: Commerce, Community, and Economic Development

## HOUSE BILL 147 - RULES

### I. INTRODUCTION

The Insurance bill proposes statutory changes that will make the regulation of insurance more efficient for the Division and more uniform for industry while at the same time providing increased protection to Alaskan consumers.

### II. LICENSING

Proposed changes are to streamline the licensing process and continue efforts to conform to NAIC models and national standards

Sections 1 & 2 – Make the notification to agents of suspension or revocation of an insurer's C of A an insurer's obligation

Sections 8 & 9 – No longer file appointments with DOI and must terminate in writing with notice to DOI if terminated for cause

Section 10 – Allows notice of license renewal by means other than mail

Section 17 – Defines appointment – authorization to act on another's behalf

### III. SURPLUS LINES

Minor changes to ease implementation of 2004 changes

Section 18 – Alien insurers file financial reports at the same time as requirements for stockholders reports

Sections 19 & 20 – Minor changes to documents required to be signed by a surplus lines broker

Section 25 – Minor change to documents required to be filed

- Linda ~~Smith~~ Hall

### III. INSURER DEPOSITS

Sections 3 & 4 – Removes the never used option for use of safety deposit boxes

Section 5 – Permits release of an insurer deposit directly to a guaranty fund is right of deposit if assigned to that fund

### IV. HEALTH DISCOUNT PLANS

These types of plans are common across the country – From 2000 to 2002 over 200,000 programs were sold and resulted in \$252 million in unpaid claims. In order to protect Alaskan consumers from illegal products, we are seeking to add specific authority to regulate

Section 22 – Add “assertions” and “electronic” to the list of methods that fall under regulation as product sales tools

Section 23 – Adds specific references to health discount plans in the unfair trade practices

Section 31 – Adds to the definition of “transact” the provision of coverage for medical care

Section 32 – Defines health discount plan – discounts or access to discounts that is not insurance

### V. 3<sup>RD</sup> PARTY ADMINISTRATORS

These provisions are to clarify the registration process & the entities required to be registered.

Sections 7, 11 & 12 - Clean up of references defined elsewhere

Sections 13 & 14 – Removes the requirement for an insurer to be registered and adds requirement for exempt entities to certify to eligibility for exemption

Section 14 – Clarifies that insurers must have COS to use TPA and TPA must be registered

Section 15 – Authorizes director to immediately suspend a registration if the TPA is financially impaired or engaged in practices injurious to policyholders

Section 27 – Administrator must be a registered TPA

Section 30 – Expands definition of TPA to cover self funded MEWA and CHIA

## VI. OCIP

Owner/Contractor controlled insurance programs are written for large construction projects and cover the insurance needs of the subcontractors on the project. Rules are currently published in the workers' compensation manual and need to be codified. Some attempts to expand these programs into operation and maintenance projects. This would have detrimental effects of markets and individual contractor insurance programs.

Section 3 – Defines the project that will qualify and provides that the program must be approved by the director

## VII. OTHER PROVISIONS

Section 26 – Adds the same standards for rate making in health insurance as other lines of insurance – may not be excessive, inadequate or unfairly discriminatory

Sections 28 & 29 – (Title Chapter) Authorizes the director's designee to accept financial statements & requires in same time frame as other insurers (45 days from end of quarter)

## Section Analysis of HB 147/F

| Sec. | Statute              | Change  | Purpose or Effect  |
|------|----------------------|---------|--|
| 1    | 21.09.160            | Amended | Removes requirement that the director provide specific notice to agents appointed with an insurer of the suspension or revocation of the insurer's certificate of authority; clarifies automatic suspension or revocation of authority of a managing general agent of an insurer whose certificate of authority has been suspended or revoked. |
| 2    | 21.09.160(c)         | Added   | Requires an insurer to notify its agents and managing general agents of the insurer's suspension or revocation.  |
| 3.   | 21.24.040(a)         | Amended | Removes never used option for how deposits may be made by deleting references to a safe deposit box.   |
| 4.   | 21.24.040(c)         | Amended | Removes never used option for how deposits may be made by deleting references to a safe deposit box.   |
| 5.   | 21.24.130(d)         | Amended | Provides public protection by permitting the director to release an insurer's statutory deposits to a guaranty fund of which the insurer is a member, if a right to receive all or a portion of the deposit is assigned to the guaranty fund.  |
| 6.   | 21.27.010(c)         | Amended | Removes reference to the functions of a third party administrator since those functions are already part of the definition of a third party administrator in AS 21.90.900; Technical change to reference to the specific third party administrator statutes.   |
| 7.   | 21.27.100            | Amended | Eliminates requirement for insurer or managing general agents to file appointments with the division; requires the insurer and producer to maintain a listing of agents/managing general agents and to provide the list upon request of the director.  |
| 8.   | 21.27.110            | Amended | Eliminates requirement for an insurer or reinsurer to file termination of appointments with the division since appointments will no longer be filed with the division; however, an insurer or reinsurer will be required to file notice of termination when the termination is for cause.  |
| 9.   | 21.27.380(a)         | Amended | Allows the director to notify a licensee of renewal by means other than mail.  |
| 10.  | 21.27.630(b)         | Amended | Technical change to replaces the term "class of insurance" with the defined term "class of authority."   |
| 11.  | 21.27.630(c)         | Amended | Removes reference to the functions of a third party administrator since those functions are already part of the definition of a third party administrator in AS 21.90.900; Technical change to reference to the specific third party administrator statutes.   |
| 12.  | 21.27.630(k) and (l) | Added   | Removes the requirement for an admitted insurer to file and obtain a separate third party administrator registration; adds a   |

*From: Division  
of Insurance*

|     |               |         |  |
|-----|---------------|---------|--|
|     |               |         | requirement for a third party administrator who qualifies for exemption to file a certification with the director.   |
| 13. | 21.27.650(a)  | Amended | Adds a requirement for a person who meets an exemption provision under the chapter to file a certification with the division.  |
| 14. | 21.27.650(q)  | Added   | Authorizes the director to immediately suspend a third party administrator's registration, without advance notice or hearing, if the administrator is insolvent, in bankruptcy, in receivership or other delinquency proceeding or is using methods or practices injurious to policy holders or the public.  |
| 15. | 21.27.660     | Added   | Clarifies that the Comprehensive Health Insurance Association and a self-funded multiple employer welfare arrangement under AS 21.85 are considered insurers for purposes of applying the third party administrator provisions in AS 21.27.630-660.  |
| 16. | 21.27.900(33) | Added   | Defines appointment  |
| 17. | 21.34.040(d)  | Amended | Specifies the timing for financial reporting for alien insurers to coincide with their filing dates for stockholder reports; eliminates duplication.   |
| 18. | 21.34.100(a)  | Amended | Makes minor changes to surplus lines filing insurance placement requirements; reflects industry practices.   |
| 19. | 21.34.100(f)  | Amended | Makes minor changes to surplus lines filing insurance placement requirements; reflects industry practices.   |
| 20. | 21.36.030(a)  | Amended | Expands provision prohibiting misrepresentation and false advertising to include electronic communications.  |
| 21. | 21.36.030(a)  | Amended | Expands the provision prohibiting misrepresentation with respect to insurance to include health discount plans. Adds specific prohibitions relating to misrepresentation and false advertising of health discount plans.   |
| 22. | 21.36.065     | Added   | Defines the circumstances under which a project owner or a contractor can provide insurance coverage for a large construction project separately from insurance coverage for other projects or operations of the owner or contractor. The owner or contractor controlled insurance program may be used only for a construction project with a contract cost of at least \$50,000,000 for a defined period of time at a specified location. The owner or contractor may use an owner or contractor controlled insurance program only when it has been approved by the director. |
| 23. | 21.36.155     | Added   | Gives the director authority to regulate trade practices of health discount plans and sets forth minimum standards for health discount plans.  |
| 24. | 21.36.190     | Added   | Allows for the use of an owner or contractor controlled insurance program only if it meets the requirements in AS 21.12.140.   |
| 25. | 21.36.195     | Amended | Makes minor changes to surplus lines filing insurance  |

|     |  |          |   |
|-----|--|----------|---|
|     |  |          | placement requirements; reflects industry practices.  |
| 26. | 21.51.405                                      | Added    | Requires that rates for health insurance policies not be excessive, inadequate or unfairly discriminatory. The change makes the standards applicable to individual health insurance rates the same as those that apply to other types of insurance and brings Alaska law in line with other states.   |
| 27. | 21.55.500(16)                                  | Amended  | Clarifies that the plan administrator for the Comprehensive Health Insurance Association must be registered as a third party administrator.   |
| 28. | 21.66.080(a)                                   | Amended  | Allows the director to designate the location for filing of financial statements for title insurers to be consistent with other insurers.   |
| 29. | 21.66.085(b)                                   | Amended  | Changes the due date for financial statements for title insurers to be consistent with other insurers.  |
| 30. | 21.90.900(42)                                  | Amended  | Expands the definition of third party administrator to also apply to functions provided in connection coverage offered or provided by a self-funded multiple employer welfare arrangement or the Comprehensive Health Insurance Association.  |
| 31. | 21.90.900(43)                                  | Amended  | Expands definition of transact to apply to the provision of coverage for medical care which is also regulated under title 21.   |
| 32. | 21.90.900(45)<br>- (47)                        | Added    | Adds a definition for health discount plan.   |
| 33. | 21.24.040(b);<br>21.27.330(b);<br>21.27.650(p) | Repealed | Removes reference to use of safe deposit boxes; eliminates requirement for firms to file and pay a fee for branch offices; and removes provision that defines transact with respect to operating requirements for third party administrators as it has been moved to a definition section at the end of the article pertaining to third party administrators. |
| 34. | Uncodified<br>Law                              | Amended  | Allows regulations for implementation for certain sections but not before those sections are effective.   |
| 35. | Effective Date                                 |          | Makes certain sections effective July 1, 2005.  |
| 36. | Effective Date                                 |          | Makes all other sections effective immediately.   |

**HB**

**156**



AMENDMENT # 1

OFFERED IN THE HOUSE  
TO: HB 16

BY REPRESENTATIVE COGHILL

*moved 4/13/05*

*has subject removed*

1 Page 1, line 2:

2 Following "programs":

3 Delete "and"

4 Insert ","

5 Following "come;"

6 Insert "and to the effectiveness of district secondary school  
7 boarding programs;"

8

9 Page 2, following line 17:

10 Insert a new bill section to read:

11 "\*\* Sec. 4. The uncodified law of the State of Alaska is amended by adding a new section to  
12 read:

13 REPORT ON SECONDARY SCHOOL BOARDING PROGRAMS. Not later than  
14 February 1, 2010, the department shall provide to the governor a report on the effectiveness of  
15 the district secondary school boarding programs operated by school districts. The department  
16 shall include draft legislation to extend the cost reimbursement under AS 14.16.200 and the  
17 student counting method under AS 14.17.905(c) for boarding school programs if the  
18 department finds that continuation of the programs is in the best interest of the state. The  
19 department shall make the report available to the public and to the legislature."

*Has moved as amended w/ end use + fn*

24-LS0615V  
Mischel  
4/6/05

*4/13/05  
Hamm adopted  
and passed  
& bn*

**CS FOR HOUSE BILL NO. 156( )**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

*4/13/05  
Hamm adopted w/D*

**BY**

**Offered:**

**Referred:**

**Sponsor(s): REPRESENTATIVE HOLM**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the membership and duties of and quorum requirements for the**  
2 **Alaska Commission on Aging; and providing for an effective date."**

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

4 **\* Section 1.** AS 47.45.200(a) is amended to read:

5 (a) The Alaska Commission on Aging is established in the Department of  
6 Health and Social Services. The members of the commission include

7 (1) the commissioner of health and social services or the  
8 commissioner's designee;

9 (2) the commissioner of commerce, community, and economic  
10 development or the commissioner's designee;

11 (3) a senior services provider, regardless of age [THE  
12 COMMISSIONER OF ADMINISTRATION OR THE COMMISSIONER'S  
13 DESIGNEE.];

14 (4) the chair of the Alaska Pioneers' Homes Advisory Board under

1 AS 44.29.500); and

2 (5) seven persons selected on the basis of their knowledge and  
3 demonstrated interest in the concerns of older Alaskans, appointed by the governor in  
4 accordance with (b) of this section.

5 \* Sec. 2. AS 47.45.210(b) is amended to read:

6 (b) The member [MEMBERS] of the commission listed in  
7 AS 47.45.200(a)(2) [AND (3)] may not vote on matters before the commission. A  
8 majority of the members of the commission listed in AS 47.45.200(a)(1) and (3) - (5)  
9 [AS 47.45.200(a)(1), (4), AND (5)] constitutes a quorum for conducting business and  
10 exercising the powers of the commission.

11 \* Sec. 3. AS 47.45.240(a) is amended to read:

12 (a) The commission shall

13 (1) approve a comprehensive statewide plan that identifies the  
14 concerns and needs of older Alaskans and, with reference to the approved plan,  
15 prepare and submit to the governor and legislature an annual analysis and evaluation  
16 of the services that are provided to older Alaskans;

17 (2) make recommendations directly to the governor and the legislature  
18 with respect to legislation, regulations, and appropriations for programs or services  
19 that benefit older Alaskans;

20 (3) encourage the development of municipal commissions serving  
21 older Alaskans and community-oriented programs and services for the benefit of older  
22 Alaskans;

23 (4) employ an executive director who serves at the pleasure of the  
24 commission;

25 (5) help older Alaskans lead dignified, independent, and useful lives;

26 (6) request and receive reports and audits from state agencies and local  
27 institutions concerned with the conditions and needs of older Alaskans;

28 (7) with the approval of the commissioner of health and social  
29 services, set policy for the administration of federal programs subject to state control  
30 as provided under 42 U.S.C. 3001 - 3058ee (Older Americans Act), as amended [,  
31 AND EVALUATE GRANT APPLICANTS AND MAKE GRANT AWARDS

1 UNDER THOSE PROGRAMS];

2 (8) with the approval of the commissioner of health and social  
3 services, set policy for the administration of state programs as provided under  
4 AS 47.65 [AND EVALUATE GRANT APPLICANTS AND AWARD GRANTS  
5 UNDER THOSE PROGRAMS];

6 (9) give assistance, on request, to the senior housing office in the  
7 Alaska Housing Finance Corporation in administration of the senior housing loan  
8 program under: AS 18.56.710 - 18.56.799 and in the performance of the office's other  
9 duties under AS 18.56.700; and

10 (10) provide to the Alaska Mental Health Trust Authority, for its  
11 review and consideration, recommendations concerning the integrated comprehensive  
12 mental health program for persons who are described in (d) of this section and the use  
13 of the money in the mental health trust settlement income account in a manner  
14 consistent with regulations adopted under AS 47.30.031.

15 \* Sec. 4. This Act takes effect immediately under AS 01.10.070(c)

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: CSHB 156(HES)  
 ( H ) Publish Date: 3/18/05  
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title: MEMBERSHIP OF THE ALASKA COMMISSION ON AGING RDU: Boards and Commissions  
 Component: Commission on Aging

Sponsor: HOLM  
 Requester: HOUSE (HES) Component No.: 2674

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

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

|                               |  |  |  |  |  |  |
|-------------------------------|--|--|--|--|--|--|
| <b>CHANGE IN REVENUES (0)</b> |  |  |  |  |  |  |
|-------------------------------|--|--|--|--|--|--|

**FUND SOURCE (Thousands of Dollars)**

|                                       |            |            |            |            |            |            |
|---------------------------------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts                 |            |            |            |            |            |            |
| 1003 GF Match                         |            |            |            |            |            |            |
| 1004 GF                               |            |            |            |            |            |            |
| 1037 GF/Mental Health                 |            |            |            |            |            |            |
| Other(Specify Type-do not abbreviate) |            |            |            |            |            |            |
| Other(Specify Type-do not abbreviate) |            |            |            |            |            |            |
| <b>TOTAL</b>                          | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

Estimate of any current year (FY2005) cost:

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 proposed legislation removes the Commissioner of Administration from the Commission and instead adds a regular member from the public to the Commission (from 7 to 8). This change has no fiscal impact on DHSS

Prepared by: Janet Clarke, Assistant Commissioner  
 Division: Finance and Management Services  
 Approved by: Joel S. Gilbertson, Commissioner  
 Agency: Department of Health and Social Services

Phone: 465-1630  
 Date/Time: 02/11/2005  
 Date: 02/23/2005

# Representative Jim Holm

## Alaska State Legislature

### District 9

#### Session

Capitol Building, Room 110  
Juneau, AK 99801  
Phone: (907) 465-3466  
Fax: (907) 465-2937



#### Interim

119 N. Cushman St.  
Fairbanks, AK 99701  
Phone: (907) 456-7423  
Fax: (907) 451-9293

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## HB 156

### Sponsor Statement

2/28/05

#### "An Act relating to the membership of the Alaska Commission on Aging"

The mission of the Alaska Commission on Aging (ACoA) is to ensure dignity and independence for Alaska's seniors and to assist them, through programs and services funded by the Commission, in leading useful and meaningful lives.

In 2003, Executive Order No. 108 transferred the Alaska Commission on Aging from the Department of Administration to Health and Social Services.

In 2004, my HB 394 implemented that change and also extended the Commission's sunset date from 2004 to 2008. This year, HB 156 makes one change to ACoA's membership.

The Commissioner of the Department of Administration has indicated he is not able to participate as a member of the ACoA and supports removing DOA's seat. At its February 2005 quarterly meeting, the ACoA passed a motion requesting that the seat vacated by DOA be filled by "a senior services provider, regardless of age, and that the provider be a recipient of a Division of Senior and Disabilities Services grant under the Senior Grant Program." HB 156 simply makes this change, and I urge your support.

**Representative Jim Holm**  
**Alaska State Legislature**  
District 9

**Session**

Capitol Building, Room 110  
Juneau, AK 99801  
Phone: (907) 465-3466  
Fax: (907) 465-2937



**Interim**

119 N. Cushman St.  
Fairbanks, AK 99701  
Phone: (907) 456-7423  
Fax: (907) 451-9293

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**HB 156**  
**Sectional Analysis**  
3/3/5

"An Act relating to the membership of the Alaska Commission on Aging"

Section 1 Amends existing statute governing members of the Alaska Commission on Aging

Removes the Department of Administration member

Replaces that seat with a Senior Program grant recipient

Section 2 Makes conforming changes

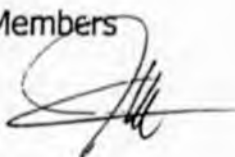
Section 3 Makes the bill effective immediately upon passage

**Representative Jim Holm**  
**Alaska State Legislature**  
District 9

**Session**  
Capitol Building, Room 110  
Juneau, AK 99801  
Phone: (907) 465-3456  
Fax: (907) 465-2937



**Interim**  
119 N. Cushman St.  
Fairbanks, AK 99701  
Phone: (907) 456-7423  
Fax: (907) 451-9293

DATE: April 7, 2005  
TO: House Rules Committee Members  
FROM: Representative Jim Holm   
RE: HB 156, Alaska Commission on Aging

The Alaska Commission on Aging was moved from Department of Administration to Department of Health and Social Services by Executive Order 108 in 2003.

In 2005, the Commissioner of Administration indicated he was not able to participate as a member of the Commission. HB 156 replaces that seat with a public seat filled by a senior service provider.

Our original HES CS, Version Y, stipulated that the senior service provider also be a grant recipient under the Senior Grant Program. Even though the Commission no longer administers the Senior Grant Program, there was a perceived conflict of interest.

Our proposed CS, Version I, removes the requirement that the provider be a grant recipient. It also removes two now-obsolete sections of statute giving the Commission the duty to "evaluate grant applicants and award grants..."

This makes the bill much "cleaner" and will alleviate any possible perception of a conflict of interest.

## State of Alaska

### Office of Boards and Commissions

---

#### AGING COMMISSION

**BOARD:** Alaska Commission on Aging

**BOARD IDENTIFICATION NUMBER:** 071

**DEPARTMENT:** Department of Health and Social Services

**AUTHORITY:** AS 47.45.200

**STATUS:** Active

**SUNSET DATE:** 6/30/2008

**REQUIREMENTS:** No Legislative Confirmation or Financial Disclosure required

**PROHIBITIONS:** Cannot serve more than two consecutive terms or 8 consecutive years, whichever is longer.

**TERM:** 4 years

**DESCRIPTION:** 11 Members - Seven persons appointed by the Governor based on their knowledge and demonstrated interest in the concerns of older Alaskans; plus the chair of the Pioneers Homes Advisory Board; the commissioner of the Dept. of Administration or designee; the commissioner of the Dept. of Community and Economic Development or designee; and the commissioner of the Dept. of Health and Social Services or designee. Names of persons qualified for and interested in serving will be requested from senior citizens' organizations. Appointments shall be made to assure representation of low-income and minorities and rural/urban areas and statewide geographical representation. At least 6 persons appointed by the Governor shall be 60 years of age or older, 2 of whom shall be 65 years of age or older. Each must be a resident of the State of Alaska. Non-voting members include the Commissioners or their designees of the Dept. of Community and Economic Development, and the Dept. of Health and Social Services. Commission elects chair.

**FUNCTION:** Formulates a comprehensive statewide plan that identifies the concerns and needs of older Alaskans and prepares and submits to the Governor and Legislature an annual analysis and evaluation of the services that are provided to older Alaskans. Makes recommendations to the Governor and Legislature regarding legislation, regulations, and appropriations for programs or services that benefit older Alaskans. Encourages the development of programs and services which benefit older Alaskans, helping them to lead dignified, independent, and useful lives. Evaluates grant applications and makes grant awards under federal and state programs. Provides to the Alaska Mental Health Trust Authority recommendations concerning the integrated comprehensive mental health program for older Alaskans who suffer major mental illness as a result of senility (AS 47.30.056(b)(4)).

**CHAIR:** Commission selects.

**SPECIAL FACTS:** Serve at the pleasure of the Governor. Quorum - majority of voting members.  
**Meetings:** four quarterly meetings per year

**COMPENSATION:** Standard Travel and Per Diem.

**MEETINGS:** At call of chair or majority of members; at least 4 times each year.

**FOR FURTHER INFORMATION CONTACT:**

Ms. Linda Gohl

Director

Alaska Commission on Aging

DHSS, P.O. Box 110693

Juneau, AK 99811-0693

Phone: (907) 465-3250, FAX: (907) 465-1398

Aging Commission Roster

Go to the Aging Commission Home page

# STATE OF ALASKA

## DEPARTMENT OF HEALTH AND SOCIAL SERVICES

### *Alaska Commission on Aging*

**FRANK H. MURKOWSKI**  
**GOVERNOR**

P.O. BOX 110693

JUNEAU, ALASKA 99811-0693

PHONE: (907) 465-3250

FAX: (907) 465-1398

March 3, 2005

The Honorable Representative Jim Holm  
State Capitol, Room 513  
Juneau, AK 99811

Re: HB 156, Change to ACoA Membership

Dear Representative Holm:

On behalf of the ACoA, thank you very much for your willingness to sponsor Legislation that would change the membership of the ACoA. Initially, the ACoA requested that legislation be introduced that would change the Department of Administration (DOA) seat to a public member seat. However, the ACoA took action during its meeting on February 24<sup>th</sup> to request an amendment to HB 156 that replaces the DOA membership with a senior services provider. The motion as stated below passed by unanimous consent:

That HB 156 be amended, so that one ACoA member be a senior services provider regardless of age, and that the provider be a recipient of a Division of Senior and Disabilities Services grant.

The ACoA took this action after reconsidering a request from AGENET, an advocacy organization of senior services agencies. AGENET has emphasized that other boards representing individuals with disabilities, mental illness, or who have chemical dependencies, have at least one service provider seat on their board or council.

Adding a provider seat to the ACoA would not cause a conflict of interest if the provider applied for a senior services grant. AS 47.45.240(a)(7) requires the Commissioner of the Department of Health & Social Service's approval to allow the ACoA grant evaluation and award responsibilities, and that authority is not delegated to the ACoA. These grant process functions remain within the department, and only the DHSS Commissioner or his designee approves grant awards.

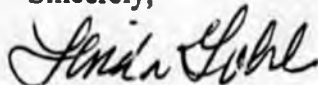
Also, I have contacted Ray Matiashowski, Commissioner of the Department of Administration (DOA) and have asked that he send you a letter of support for passage of HB 156. Mr. Matiashowski has indicated in the past that he would support legislation that removes the Department of Administration on the ACoA.

Page 2  
HB 156

On behalf of the ACoA, thank you for introducing HB 156 and considering this request to amend HB 156. Please feel free to contact me at 465-4879 if you need any other information. Also, once the bill is scheduled for a Committee hearing, I would be happy to testify on behalf of the Commission, as well as enlist the support of AGENET members to testify.

Thank you for your continued support of the Commission's activities and issues impacting older Alaskans.

Sincerely,

A handwritten signature in cursive script that reads "Linda Gohl".

Linda Gohl  
Executive Director

**HB**

**197**

*Coghell  
move out*

24-LS0664\Y  
Chenoweth  
3/31/05

**CS FOR HOUSE BILL NO. 197( )**

**IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

**BY**

**Offered:  
Referred:**

*Kohring moved  
objections*

**Sponsor(s): HOUSE SPECIAL COMMITTEE ON OIL AND GAS**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act exempting certain natural gas exploration and production facilities from oil**  
2 **discharge prevention and contingency plans and proof of financial responsibility, and**  
3 **amending the powers and duties of the Alaska Oil and Gas Conservation Commission**  
4 **with respect to those plans; and providing for an effective date."**

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

6 **\* Section 1.** AS 31.05.030 is amended by adding a new subsection to read:

7 (D) For purposes of AS 46.04.050(c) and upon application by the operator, the  
8 commission shall evaluate the likelihood that a well at a natural gas exploration  
9 facility may penetrate a formation capable of flowing oil to the ground surface and  
10 issue a determination based on results of the evaluation. If the commission determines  
11 that evidence obtained through the evaluation demonstrates with reasonable certainty  
12 that a well will not penetrate a formation capable of flowing oil to the ground surface,  
13 it shall report its determination to the Department of Environmental Conservation. In  
14 this subsection,

1 (1) "natural gas exploration facility" has the meaning given in  
2 AS 46.04.050(c);

3 (2) "oil" has the meaning given in AS 46.04.050(c).

4 \* Sec. 2. AS 46.04.030(b) is amended to read:

5 (b) A person may not cause or permit the operation of a pipeline or an  
6 exploration or production facility in the state unless an oil discharge prevention and  
7 contingency plan for the pipeline or facility has been approved by the department and  
8 the person is in compliance with the plan. [THIS SUBSECTION DOES NOT APPLY  
9 TO AN EXPLORATION OR PRODUCTION FACILITY USED SOLELY TO  
10 EXPLORE FOR OR TO DEVELOP OR PRODUCE NONCONVENTIONAL GAS  
11 RESOURCES, EXCEPT THAT THIS EXEMPTION DOES NOT APPLY IF THE  
12 ALASKA OIL AND GAS CONSERVATION COMMISSION DETERMINES  
13 UNDER AS 31.05.030(j) THAT

14 (1) A WELL DRILLED FOR NONCONVENTIONAL GAS MAY  
15 PENETRATE A FORMATION CAPABLE OF FLOWING OIL; AND

16 (2) THE VOLUME OF OIL ENCOUNTERED WILL BE OF SUCH  
17 QUANTITIES THAT A CONTINGENCY PLAN WILL BE REQUIRED.]

18 \* Sec. 3. AS 46.04.040(b) is amended to read:

19 (b) A person may not cause or permit the operation of a pipeline or an  
20 exploration or production facility in the state unless the person has furnished to the  
21 department, and the department has approved, proof of financial ability to respond in  
22 damages. Proof of financial responsibility required for

23 (1) a pipeline or an offshore exploration or production facility is  
24 \$50,000,000 per incident;

25 (2) an onshore production facility is

26 (A) \$20,000,000 per incident if the facility produces over  
27 10,000 barrels per day of oil;

28 (B) \$10,000,000 per incident if the facility produces over 5,000  
29 barrels per day but not more than 10,000 barrels per day of oil;

30 (C) \$5,000,000 per incident if the facility produces over 2,500  
31 barrels per day but not more than 5,000 barrels per day of oil;

1 (D) \$1,000,000 per incident if the facility produces 2,500  
2 barrels per day or less of oil;

3 (3) an onshore exploration facility is

4 [(A) \$25,000 PER INCIDENT FOR A FACILITY USED  
5 SOLELY TO EXPLORE FOR NONCONVENTIONAL GAS BY MEANS  
6 OF DRILLING A WELL TO EXPLORE FOR THE GAS; AND

7 (B) EXCEPT AS PROVIDED BY (A) OF THIS  
8 PARAGRAPH,] \$1,000,000 per incident.

9 \* Sec. 4. AS 46.04.050(b) is amended to read:

10 (b) The provisions of AS 46.04.030 and 46.04.040 do not apply to a natural  
11 gas production facility and a natural gas terminal facility; for purposes of this  
12 subsection, [THE TERMS] "natural gas production facility" and "natural gas terminal  
13 facility"

14 [(1)] mean a platform, facility, or structure that, except for storage of  
15 refined petroleum products in a quantity that does not exceed 10,000 barrels, is  
16 used solely for the production, compression, storage, or transport of natural gas [;

17 (2) DO NOT INCLUDE A PLATFORM, FACILITY, OR  
18 STRUCTURE THAT PRODUCES, STORES, OR TRANSPORTS NATURAL GAS  
19 IN COMBINATION WITH OIL].

20 \* Sec. 5. AS 46.04.050 is amended by adding a new subsection to read:

21 (c) The provisions of AS 46.04.030 and 46.04.040 do not apply to a natural  
22 gas exploration facility if the Alaska Oil and Gas Conservation Commission has  
23 determined under AS 31.05.030(l) that evidence obtained through evaluation  
24 demonstrates with reasonable certainty that all of the wells at a natural gas exploration  
25 facility will not penetrate a formation capable of flowing oil to the ground surface. If  
26 the drilling of a well at an exploration facility exempted under this subsection does  
27 penetrate a formation capable of flowing oil to the surface, the owner or operator shall  
28 submit an oil discharge prevention and contingency plan and proof of financial  
29 responsibility to the department to meet the requirements of AS 46.04.030 and  
30 46.04.040. For purposes of this subsection, "natural gas exploration facility" means a  
31 platform, facility, or structure that, except for storage of refined petroleum products in

1 a quantity that does not exceed 10,000 barrels, is used solely for the exploration for  
2 natural gas.

3 \* Sec. 6. AS 31.05.030(j)(2)(C) and AS 46.04.900(10) are repealed.

4 \* Sec. 7. This Act takes effect immediately under AS 01.10.070(c).

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
Bill Version: HB 197  
(H) Publish Date: 3/16/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Environmental Conservation  
Title: Related to oil discharge prevention and contingency RDU: Spill Prevention and Response  
plans for certain natural gas exploration facilities Component: Industry Preparedness and  
Sponsor: House Oil & Gas Committee Pipeline Operations  
Requester: House Oil & Gas Committee Component No. 1922

**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      | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        |
| Travel                 | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        |
| Contractual            | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        |
| Supplies               | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        |
| Equipment              | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        |
| Land & Structures      | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        |
| Grants & Claims        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        |
| Miscellaneous          | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        | 0.0        |
| <b>TOTAL OPERATING</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

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

|                               |  |  |  |  |  |  |
|-------------------------------|--|--|--|--|--|--|
| <b>CHANGE IN REVENUES ( )</b> |  |  |  |  |  |  |
|-------------------------------|--|--|--|--|--|--|

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (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 | 0 | 0 | 0 | 0 | 0 | 0 |
| Part-time | 0 | 0 | 0 | 0 | 0 | 0 |
| Temporary | 0 | 0 | 0 | 0 | 0 | 0 |

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

This bill will not have a financial impact on the department. It clarifies DEC's authority to exempt natural gas exploration wells (that do not pose a threat of an oil spill) from contingency plan and proof of financial responsibility requirements. It corrects an unintended consequence of HB531 passed in May, 2004, which, in part, narrowed the scope of that exemption from the pre-existing broad exemption for all shallow natural gas facilities, to a narrower exemption for "nonconventional gas" wells, defined as strictly "coal bed" methane, gas contained in shales or gas hydrates". This bill repeals the "nonconventional gas" definition in applicable DEC contingency plan statutes AS 46.04.030(b) and 040(b)(3)(A) and replaces it with broader exemption language restated in AS 46.04.050(c) "for those natural gas exploration wells the AOGCC determines will not penetrate a formation capable of flowing oil to the ground surface."

Prepared by: Larry Dietrick, Director Phone 465-5250  
Division: Spill Prevention and Response Date/Time 3/14/05 3:43 PM  
Approved by: Kurt Fredriksson, Acting Commissioner Date \_\_\_\_\_  
Agency: Department of Environmental Conservation

# ALASKA STATE LEGISLATURE

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## REPRESENTATIVE VIC KOHRING DISTRICT 14

### House Bill 197 Sponsor statement

House Bill 197 clarifies the Department of Environmental Conservation's (DEC) authority to exempt gas exploration wells and production facilities from *oil discharge prevention and contingency plans* ("C-Plans"). The legislation also removes the industry's burden of financial responsibility required of wells that do not pose an oil spill threat.

HB 197 fixes the unintended consequences of last year's HB 531. That legislation, in part, limited previous exemptions for gas exploration and production facilities for all shallow natural gas facilities to a narrow exemption for "non conventional gas wells." The problem HB 197 seeks to correct relates to the new definition of "non conventional gas," which HB 531 defined as "coal bed methane, gas contained in shales or gas hydrates."

Benefits of HB 197 include permitting DEC to focus its resources on the review of C-Plans and proof of financial responsibility for those gas exploration facilities that could potentially incur an oil spill. It also gives DEC authority to conduct inspections the Legislature directed when it changed the *contingency plan review renewal requirement* from three to five years. In addition, the bill relieves industry from unnecessary financial costs associated with preparing and implementing oil spill contingency plans for gas exploration facilities where no threat of an oil release spill exists. Lastly, HB 197 relieves industry from the costs involving demonstrating proof of financial responsibility in response to oil spills at gas exploration facilities, where no threat of spills exist.

# LEGAL SERVICES

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

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State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 320

## MEMORANDUM

April 5, 2005

**SUBJECT:** Draft CSHB 197 ( ) -- sectional analysis  
(Work Order No. 24-LS0664\Y)

**TO:** Representative Vic Kohring

**FROM:** Jack Chenoweth,  
Assistant Revisor

The bill draft revises various statutes setting parameters for oil discharge prevention and contingency planning and proof of financial responsibility for natural gas exploration and production facilities. It also spells out in greater detail the role assigned in current law to the Alaska Oil and Gas Conservation Commission in determining whether a facility may be exempt from the oil discharge prevention and contingency planning and proof of financial responsibility requirements.

\*

### **OIL DISCHARGE PREVENTION AND CONTINGENCY PLANNING --**

Under current AS 46.04.030(b), "[a] person may not cause or permit the operation of a pipeline or an exploration or production facility in the state unless an oil discharge prevention and contingency plan for the pipeline or facility has been approved by the department and the person is in compliance with the plan." The language of the subsection goes on to set out an exemption for a facility that is "used solely to explore for or to develop or produce *nonconventional* natural gas resources," that is, to explore for and develop gas resources from coal bed methane, gas contained in shales, and gas hydrates. However, under current law, this nonconventional gas exemption does not apply if the Alaska Oil and Gas Conservation Commission determines that a well drilled for nonconventional gas may penetrate a formation capable of flowing oil and the volume of oil encountered will be of such quantities that a contingency plan will be required.

The amendment made by the draft's **bill section 2** eliminates the exemption and the exception to the exemption that appear in existing AS 46.04.030(b). A revised and expanded exemption covering recovery of natural gas without regard to source is set out in the new language of AS 46.04.050(c), added by **bill section 5**.

\*

Representative Vic Kohring  
April 5, 2005  
Page 2

**PROOF OF FINANCIAL RESPONSIBILITY --**

Under AS 46.04.040(b), "[a] person may not cause or permit the operation of a pipeline or an exploration or production facility in the state unless the person has furnished to the department, and the department has approved, proof of financial ability to respond in damages." The subsection goes on to set the proof of financial responsibility that must be demonstrated. For onshore facilities concerned with natural gas recovery, AS 46.04.040(b)(3) draws a distinction between *nonconventional* gas exploration -- the proof required is set at \$25,000 per incident -- and gas exploration from *other than nonconventional* gas sources -- the proof required is set at \$1,000,000 per incident.

The amendment proposed by **bill section 3** eliminates the distinction and extends the \$1,000,000 per incident standard to cover onshore facilities concerned with natural gas recovery from nonconventional gas sources. However, under the language added as AS 46.04.050(c) by bill section 5, certain natural gas exploration facilities may be exempt from proof of financial responsibility requirements.

\*

**REVISION OF THE OIL DISCHARGE PREVENTION AND CONTINGENCY PLANNING AND PROOF OF FINANCIAL RESPONSIBILITY EXEMPTIONS FOR CERTAIN NATURAL GAS PRODUCTION AND TERMINAL FACILITIES --**

Existing AS 46.04.050 sets out several exemptions from the oil discharge prevention and contingency planning and proof of financial responsibility requirements of AS 46.04.030 and 46.04.040. AS 46.04.050(b) currently exempts "a natural gas production facility and a natural gas terminal facility." The subsection supplies definitions for those terms, limiting them to "a platform, facility, or structure that is used solely for the production, compression, storage, or transport of natural gas," and making the exemption inoperable if "a platform, facility, or structure . . . produces, stores, or transports natural gas in combination with oil."

The amendments proposed in **bill section 4** modify the language of AS 46.04.050(b) so that the exemption would operate as to a [natural gas production or terminal] platform, facility, or structure that "is used solely for production, compression, storage, or transport[ation] of natural gas." With the amendment, the facility would be permitted to store a reasonable quantity of refined petroleum products on site without foregoing the exemption.

\*

**APPLICATION OF THE OIL DISCHARGE PREVENTION AND CONTINGENCY PLANNING AND PROOF OF FINANCIAL RESPONSIBILITY EXEMPTIONS FOR CERTAIN NATURAL GAS EXPLORATION FACILITIES --**

**Bill section 5** is the bill's key provision. It is included by way of a replacement and expansion of the exemption described earlier in the material deleted by the amendment to AS 46.04.030(b) made in bill section 2. The amendment carries forward the idea, now applicable only to natural gas exploration facilities used to explore for nonconventional gas, that these facilities are to be exempt from the oil discharge prevention and contingency planning and proof of financial responsibility requirements of AS 46.04 unless the Alaska Oil and Gas Conservation Commission determines that there is a reasonable probability that the gas well "will not penetrate a formation capable of flowing oil to the ground surface." As the exemption is proposed to be revised and set out in bill section 5, it applies broadly to all gas exploration facilities -- not just those concerned with recovery of natural gas from nonconventional sources -- and supplies a definition for "natural gas exploration facility" that follows distinctions drawn in AS 46.04.050(b) that I discuss in the preceding paragraph of this memo.

\*

#### **RESPONSIBILITIES OF THE ALASKA OIL AND GAS CONSERVATION COMMISSION --**

The material added by bill section 5 refers to an obligation of the AOGCC to make a determination as to activities involving operation of a natural gas exploration facility. The AOGCC's duties are more specifically spelled out in the material added by bill section 1. The material added appears unexceptional and largely replaces the material proposed to be deleted in the amended language set out in bill section 2 and in the material in AS 31.05.030(j)(2)(C), shown in the repealer.

\*

#### **REPEALERS --**

The provisions proposed for repeal in **bill section 6** include AS 31.05.030(j)(2)(C). This subparagraph currently addresses the duties of the Alaska Oil and Gas Conservation Commission:

(j) For exploration and development operations involving nonconventional gas, the [Alaska Oil and Gas Conservation] commission

(2) shall

(C) for the purposes of AS 46.04.030(b), determine whether a well drilled for nonconventional gas may penetrate a formation capable for flowing oil and, if so, whether the volume of oil encountered will be of such quantities that an oil discharge prevention and contingency plan will be required; . . . .

Representative Vic Kohring  
April 5, 2005  
Page 4

These concepts appear in material added by bill sections 1 and 5, so their retention here is not warranted.

Proposed also for repeal is AS 46.04.900(10), the definition of "nonconventional gas." With the other changes proposed in the measure, the distinction that limits application of certain current provisions to facilities concerned with recovery of gas from "nonconventional" sources is replaced by material that applies to all natural gas recovery. The definition thus becomes obsolete and can be omitted.

**Bill section 7** gives the measure an immediate effective date.

JBC:lmb  
05-106.lmb

# STATE OF ALASKA

FRANK H. MURKOWSKI, GOVERNOR

## ALASKA OIL AND GAS CONSERVATION COMMISSION

333 W. 7<sup>TH</sup> AVENUE, SUITE 100  
ANCHORAGE, ALASKA 99501-3539  
PHONE (907) 278-1438  
FAX (907) 278-7542

March 14, 2005

The Honorable Victor Kohring  
Chair, House Special Committee on Oil and Gas  
State Capitol  
Juneau, Alaska 99801

Re: Letter of Support Concerning House Bill No. 197

Dear Representative Kohring:

The Alaska Oil and Gas Conservation Commission ("Commission") supports House Bill No. 197 ("HB 197"), which amends the laws regarding oil discharge prevention and contingency plans and proof of financial responsibility ("C-plans") to allow better use of geologic information and understanding in determining the need for such plans.

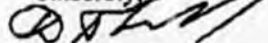
Under current law, a C-plan is required for wells drilled to explore for or produce oil. On the other hand, a C-plan is not required for wells drilled to produce only gas. The treatment of wells drilled to *explore* for gas has a complicated history. Previously, wells drilled for shallow gas were exempted from the C-plan requirement. In 2004, however, HB 531 changed the language from "shallow" gas to "nonconventional" gas. In practical terms, this means that wells drilled to explore for coalbed methane qualify for exemption, but wells drilled to explore for other shallow gas are generally not entitled to exemption. In the Commission's view, there is a mismatch between the current scope of the C-plan exemption and the facts of Alaska's geology.

What the Commission has learned over the years is that drilling in many areas of the state poses essentially no risk of an oil spill. These areas have thick geologic sections containing both conventional and nonconventional gas reservoirs, but have very little potential for the existence of zones capable of flowing liquid hydrocarbons. Requiring a C-plan for wells drilled in these circumstances adds cost and delay to gas exploration without providing increased protection to the environment.

HB 197 corrects the inadequacies in current law by providing for a case-by-case geological evaluation of wells drilled to explore for gas – whether shallow or deep, nonconventional or conventional. Under this bill, a well drilled to explore for gas would qualify for a C-plan exemption if, but only if, the Commission determines that evidence demonstrates with reasonable certainty that the well will not penetrate a formation capable of flowing oil to the ground surface. The approach of HB 197 is to base C-plan exemption decisions on application of the Commission's geologic expertise to the specific facts of a proposed exploration project. The Commission believes this is exactly the right approach.

Thank you for your attention.

Sincerely,



Daniel T. Seamount, Jr.  
Commissioner

**Unocal Alaska**  
Union Oil Company of California  
909 West 9th Avenue, P.O. Box 196247  
Anchorage, Alaska 99519-8247  
Telephone (907) 276-7600  
Fax (907) 263-7698



**Kevin A. Tabler, Manager**  
Land/Government Affairs

March 11, 2003

Representative Vic Kohring  
State of Alaska Legislature  
Room 24, State Capitol  
Juneau, Alaska 99801-1182

Re: Support for HB197

Re,representative Kohring:

Union Oil Company of California was delighted to see the introduction of HB 197 to clean up the effect of HB531 (2003 legislation) which created the unintended consequence of elimination of the exemption for oil spill contingency plans for exploration and production facilities used solely to explore, develop or produce shallow natural gas. Our review of the proposed legislation concludes that HB 197 clears up the unintentional change caused by implementation of HB 531 and supports your efforts.

Thank you for taking the initiative to fix this problem.

Sincerely,

A handwritten signature in cursive script that reads "Kevin A. Tabler".

Kevin A. Tabler

## HB 197 - Sectional Analysis

HB 197 clarifies DEC's authority to exempt natural gas exploration wells that do not pose a threat of an oil spill from the contingency plan and proof of financial responsibility requirements. HB 197 corrects an unintended consequence of HB 531, adopted in May 2004, that narrowed one of the exemptions for natural gas exploration and production facilities from a broad exemption for all shallow natural gas facilities to a narrow exemption for nonconventional gas wells. The 2004 legislation defined "nonconventional gas" as only "coal bed methane, gas contained in shales or gas hydrates."

HB 197 repeals the "nonconventional gas" provisions in AS 46.04.030(b) and AS 46.04.040(b)(3)(A) and replaces them with a broader exemption in AS 46.04.050(c). The new exemption would be for all natural gas exploration wells that the Alaska Oil and Gas Conservation Commission (AOGCC) determines that "evidence demonstrates with reasonable certainty . . . will not penetrate a formation capable of flowing oil to the ground surface."

Section 1. Creates a new authorization in AS 31.05.030(l) for the AOGCC to evaluate the likelihood that a well at a natural gas exploration facility may penetrate a formation capable of flowing oil to the ground surface. If the commission determines that evidence demonstrates with reasonable certainty that a well at a natural gas exploration facility will not penetrate a formation capable of flowing oil to the ground surface, it shall report its determination to DEC. Section 6 repeals the 2004 language authorizing AOGCC to make exception determinations for nonconventional gas wells since that authority is replaced by the new authority in section 1 (AS 31.05.030(l)).

Section 2. Repeals the existing c-plan exemption for nonconventional gas wells and replaces it with a broader exemption in section 5 by creating a new subsection (c) in AS 46.04.050 (exemptions).

Section 3. Repeals the \$25,000 financial responsibility requirement for nonconventional gas onshore exploration facilities. Natural gas facilities would only be required to have financial responsibility under AS 46.04.040 if the wells could penetrate a formation capable of flowing oil to the surface. At which point, they would be required to have \$1 million in financial responsibility as an onshore oil exploration facility.

Section 4. Clarifies the existing exemption for "natural gas production facilities" and "natural gas terminal facilities." Makes clear that the exemption is not lost unless the facility produces, stores or transports natural gas in combination with crude oil or the facility would qualify as

*From: DEC*

an oil terminal facility with storage capacity above 5,000 barrels of crude oil or 10,000 barrels of noncrude oil.

Section 5. A new subsection to the c-plan and financial responsibility exemptions would exempt a natural gas exploration facility if the AOGCC determines under AS 31.05.030(l) that evidence obtained through evaluation demonstrates with reasonable certainty that all of the exploration wells at the facility will not penetrate a formation capable of flowing oil to the ground surface. If the AOGCC cannot make that determination for all of the wells at the exploration facility, the facility would not be exempted. Similarly, if the drilling of a well does penetrate such a formation a c-plan and financial responsibility would be required.

A new subsection (c) is added to define the term "natural gas exploration facility" with similar exceptions to the exemption if the facility explores, produces, stores or transports natural gas in combination with crude oil or if it qualifies as a regulated oil terminal facility.

Section 6. Repeals the AOGCC nonconventional gas finding provision that is replaced by new AS 31.05.030(l) and removes the definition of nonconventional gas from AS 46.04.900 since it is no longer used in Chapter 4 of Title 46.

**OVERVIEW DOCUMENT**  
**Natural Gas Facility Exemption from**  
**DEC Contingency Plan Requirements**

This bill clarifies DEC's authority to exempt natural gas exploration wells – that do not pose a threat of an oil spill – from contingency plan and proof of financial responsibility requirements. It corrects an unintended consequence of HB 531, which passed the Legislature in May, 2004. That bill, in part, narrowed the scope of an exemption (for natural gas exploration and production facilities) from the preexisting broad exemption for all shallow natural gas facilities, to a narrow exemption for 'nonconventional gas' wells. The problem stems from the HB 531 definition of 'nonconventional gas' as strictly, "coal bed methane, gas contained in shales or gas hydrates."

**Benefits of the Legislation.**

- Allows DEC to focus its resources on the review of c-plans and proof of financial responsibility for those natural gas exploration facilities that could potentially threaten the environment with oil spills; and
- Ensures that DEC can conduct the additional inspections and drills that the Legislature envisioned would be performed when it changed the contingency plan review renewal requirement from three to five years;
- Relieves industry from the unnecessary financial costs and schedule impacts of preparing and implementing oil spill contingency plans for natural gas exploration facilities where there is not a threat of an oil release from the well; and
- Relieves industry from the unnecessary cost of demonstrating proof of financial responsibility (i.e. insurance, bonds or letters of credit) to respond to oil spills at natural gas exploration facilities where there is not a threat of an oil release from the well.

The "fix" proposed through this bill repeals the "nonconventional gas" provisions in applicable DEC contingency plan and financial responsibility statutes -- AS 46.04.030(b) and .040(b)(3)(A) -- and replaces them with broader exemption language restated in AS 46.04.050(c) for those natural gas exploration wells that the AOGCC determines the evidence "demonstrates with reasonable certainty . . . will not penetrate a formation capable of flowing oil to the ground surface."

DEC has used its existing authority in AS 46.04.050(b) for natural gas *production* wells to exempt natural gas *exploration* wells where there is sufficient geological information to determine that the wells will not penetrate a formation capable of flowing oil to the surface. In consultation with AOGCC, DEC has determined such wells to be natural gas production facilities under .050(b) even if sufficient information is unavailable to quantify their commercial potential as development wells. This bill would clarify DEC's existing exemption authority in AS 46.04.050(b) by exempting all natural gas exploration wells that are not capable of causing an oil spill from the c-plan and financial responsibility requirements. Sec. 5.

Sec. 46.04.900. Definitions.

Statute text

In this chapter, unless the context requires otherwise,

- (1) "barrel" is a measure of capacity equal to the space occupied by 42 U.S. gallons at 60 degrees Fahrenheit;
- (2) "catastrophic oil discharge" means an oil discharge in excess of 100,000 barrels, or any other discharge which the governor determines presents a grave and substantial threat to the economy or environment of the state;
- (3) "Clean Water Act" means the Federal Water Pollution Control Act of 1972 (P.L. 92-500), as amended by the Clean Water Act of 1977 (P.L. 95-217), as amended (33 U.S.C. 1251 - 1376);
- (4) "commissioner" means the commissioner of environmental conservation;
- (5) "containment and cleanup" includes all direct and indirect efforts associated with the prevention, abatement, containment, or removal of a pollutant, and the restoration of the environment to its former state; when applied to expenses, the term includes the additional costs of providing a reasonable and appropriate function or service incurred in response to the discharge of a pollutant, including administrative expenses for the incremental costs of providing the function or service;
- (6) "department" means the Department of Environmental Conservation;
- (7) "discharge" means spilling, leaking, pumping, pouring, emitting, emptying, or dumping;
- (8) "exploration facility" means a platform, vessel, or other facility used to explore for hydrocarbons in or on the waters of the state or in or on land in the state; the term does not include platforms or vessels used for stratigraphic drilling or other operations that are not authorized or intended to drill to a producing formation;
- (9) "natural gas"
  - (A) means a hydrocarbon that at 70 degrees Fahrenheit and atmospheric pressure is in a gaseous state;
  - (B) includes liquefied natural gas or other form of natural gas that has been converted to a liquid state by pressure or cooling that at 70 degrees Fahrenheit and atmospheric pressure reverts to a gaseous state; (emphasis added)
- (10) "nonconventional gas" has the meaning given in AS 38.05.965.
- (11) "nonpersistent product" has the meaning given to "non-persistent or Group I oil" in 33 C.F.R. 155.1020;
- (12) "nontank vessel" means a self-propelled watercraft of more than 400 gross registered tons; in this paragraph, "watercraft" includes commercial fishing vessels, commercial fish processor vessels, passenger vessels, and cargo vessels, but does not include a tank vessel, oil barge, or public vessel;
- (13) "oil" means oil of any kind and in any form, whether crude, refined, or a petroleum by-product, including but not limited to petroleum, fuel oil, gasoline, lubricating oils, oily sludge, oil refuse, oil mixed with other wastes, crude oils, liquefied natural gas, propane, butane, or other liquid hydrocarbons regardless of specific gravity; (emphasis added)
- (14) "oil barge" means a vessel which is not self-propelled and which is constructed or converted to carry oil as cargo in bulk;
- (15) "oil terminal facility" means an onshore or offshore facility of any kind, and related appurtenances, including but not limited to a deepwater port, bulk storage facility, or marina, located in, on, or under the surface of the land or waters of the state, including tide and

submerged land, that is used for the purpose of transferring, processing, refining, or storing oil; a vessel, other than a nontank vessel, is considered an oil terminal facility only when it is used to make a ship-to-ship transfer of oil, and when it is traveling between the place of the ship-to-ship transfer of oil and an oil terminal facility;

(16) "operator" means the person who, through contract, lease, sublease, or otherwise, exerts general supervision and control of activities at the facility; the term includes, by way of example and not limitation, a prime or general contractor, the master of a vessel and the master's employer, or any other person who, personally or through an agent or contractor, undertakes the general functioning of the facility;

(17) "persistent product" has the meaning given to "persistent oil" in 33 C.F.R. 155.1020;

(18) "person" means an individual, public or private corporation, political subdivision, government agency, municipality, industry, partnership, association, firm, trust, estate, or any other entity;

(19) "pipeline" means the facilities, including piping, compressors, pump stations, and storage tanks, used to transport crude oil and associated hydrocarbons between production facilities or from one or more production facilities to marine vessels;

(20) "production facility" means a drilling rig, drill site, flow station, gathering center, pump station, storage tank, well, and related appurtenances on other facilities to produce, gather, clean, dehydrate, condition, or store crude oil and associated hydrocarbons in or on the water of the state or on land in the state, and gathering and flow lines used to transport crude oil and associated hydrocarbons to the inlet of a pipeline system for delivery to a marine facility, refinery, or other production facility;

(21) "public vessel" means a vessel that is operated by and is either owned or bareboat chartered by the United States, a state or a political subdivision of that state, or a foreign nation, except when the vessel is engaged in commerce;

(22) "railroad tank car" means rolling stock used to transport oil in bulk as cargo by rail;

(23) "response action" means an action taken to respond to a release or threatened release of oil, including mitigation, cleanup, or removal;

(24) "self-propelled" means propelled either by machinery aboard the vessel, or by a tug or other vessel secured into the cargo-carrying vessel through special hull design;

(25) "service" means a function performed or service provided by the state, including functions not previously performed and services not previously provided by the state;

(26) "tank vessel" means a self-propelled waterborne vessel that is constructed or converted to carry liquid bulk cargo in tanks and includes tankers, tankships, and combination carriers when carrying oil; the term does not include vessels carrying oil in drums, barrels, or other packages, or vessels carrying oil as fuel or stores for that vessel;

(27) "train" means connected rolling stock operated as a single moving vehicle on rails; for purposes of this paragraph, "connected rolling stock" includes railroad tank cars.

(28) "vessel" includes tank vessels, oil barges, and nontank vessels;

(29) "village" means a place within the unorganized borough or within a borough as to a power, function, or service that is not exercised or provided by the borough on an areawide or nonareawide basis that

(A) has irrevocably waived, in a form approved by the Department of Law, any claim of sovereign immunity that might arise under this chapter; and

(B) has

(i) a council organized under 25 U.S.C. 476 (sec. 16 of the Indian Reorganization Act);

(ii) a traditional village council recognized by the United States as eligible for federal aid to Indians; or

(iii) a council recognized by the commissioner of commerce, community, and economic development under regulations adopted by the Department of Commerce, Community, and Economic Development to determine and give official recognition of village entities under AS 44.33.755(b);

(30) "waters of the state" includes lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, straits, passages, canals, the Pacific Ocean, Gulf of Alaska, Bering Sea and Arctic Ocean, in the territorial limits of the state, and all other bodies of surface or underground water, natural or artificial, public or private, inland or coastal, fresh or salt, which are wholly or partially in or bordering the state or under the jurisdiction of the state.

#### History

(§ 2 ch 116 SLA 1980; am §§ 25 - 27 ch 191 SLA 1990; am §§ 13, 14 ch 83 SLA 1991; am § 2 ch 39 SLA 1992; am § 14 ch 83 SLA 1992; am § 69 ch 58 SLA 1999; am §§ 2 - 4 ch 128 SLA 2000; am § 8 ch 45 SLA 2003; am §§ 54, 58 ch 49 SLA 2004)

#### Annotations

Revisor's notes. Formerly AS 46.04.120. Renumbered in 1989. Reorganized in 1990, 1991, 1992, 2000, 2003, and 2004 to maintain the defined terms in alphabetical order.

In 2004, "commissioner of community and economic development" was changed to "commissioner of commerce, community, and economic development" and "Department of Community and Economic Development" was changed to "Department of Commerce, Community, and Economic Development", in accordance with § 3, ch. 47, SLA 2004.

Administrative Code. - For financial responsibility for oil discharges, see 18 AAC 75, art. 2. For oil discharge prevention and contingency plans and nontank vessel plans, see 18 AAC 75, art. 4.

Effect of amendments. The 1999 amendment, effective July 1, 1999, in present (29)(B)(iii) substituted "economic development" for "regional affairs" in two places and made a section reference substitution.

The 2000 amendment, effective September 1, 2000, in paragraphs (14) [now (15) and (27) [now (28)] inserted references to nontank vessels and added what are now paragraphs (11), (12), (17), (21), (22), and (27).

The 2003 amendment, effective June 7, 2003, added a definition of "shallow natural gas" that appeared in former paragraph (25).

The 2004 amendment, effective June 5, 2004, repealed paragraph (25), which defined "shallow natural gas"; and added paragraph (31), renumbered as paragraph (10).

**STATE OF ALASKA**

Department of Law  
Attorney General's Office  
1031 W. 4th Avenue, Suite 200  
Anchorage, AK 99501-1994  
Environmental Section  
Phone No. (907) 269-5274  
Fax No. (907) 278-7022

**FAX TRANSMITTAL SHEET**

*Please deliver the following pages:*

|                 |   |                     |  |
|-----------------|---|---------------------|--|
| <b>TO:</b>      | Rep. Ramras, c/o Jim Pound<br>Rep. Samuels, c/o Henry Webb<br>Rep. Seaton, c/o Louie Flora<br>Rep. Kohring, c/o Charisse Millet | <b>Fax No.:</b>     | 907-465-2070<br>907-465-3810<br>907-465-3472<br>907-465-3818 |
| <b>DATE:</b>    | March 22, 2005  | <b>TOTAL PAGES:</b> | 4<br>(including cover sheet)                                 |
| <b>FROM:</b>    | Breck Tostevin<br>Assistant Attorney General  |                     |  |
| <b>RE:</b>      | HB 197  |                     |  |
| <b>REMARKS:</b> | Enclosed is a letter from Breck Tostevin to Rep. Samuels.   |                     |  |

*If you have any problems with this transmission, please call Chelsea at (907) 269-5275*

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# STATE OF ALASKA

DEPARTMENT OF LAW  
OFFICE OF THE ATTORNEY GENERAL

FRANK H. MURKOWSKI,  
GOVERNOR

1031 WEST 4<sup>TH</sup> AVENUE, SUITE 200  
ANCHORAGE, ALASKA 99501-1994  
PHONE: (907)269-3274  
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March 22, 2005

Representative Ralph Samuels  
House of Representatives  
State Capitol  
Juneau, AK 99801-1182

Re: HB 197

Dear Co-Chairman Samuels:

You asked that the Attorney General's Office provide a response to a question raised by Representative Seaton in the March 21, 2005, House Resources Committee Hearing on HB 197. Representative Seaton asked a question concerning the definitions of "oil", "crude oil" and "natural gas" in sections 4 and 5 of the bill. Because the legislative teleconference system went offline, I was unable to respond to the Representative Seaton's question. I appreciate this opportunity to explain these provisions of the bill.

The existing provisions in AS 46.04.050 provide two exemptions to the oil discharge prevention and contingency plan (C-plan) (AS 46.04.030) and financial responsibility (AS 46.04.040) requirements. The first exemption is for "oil terminal facilities" with an oil storage capacity of less than 5,000 barrels of crude oil or less than 10,000 barrels of noncrude oil. The second exemption is for natural gas production and terminal facilities. In addition, there is a C-plan exemption for natural gas exploration and production facilities in AS 46.04.030(a) that, prior to HB 531 applied to shallow natural gas facilities, and now, applies to "nonconventional gas" which is defined as "coal bed methane, gas contained in shales or gas hydrates." AS 38.05.965.

Representative Seaton's question involves the exemptions in AS 46.04.050 which provides as follows:

Sec. 46.04.050. Exemptions.

(a) The provisions of AS 46.04.030, 46.04.040, and 46.04.060 do not apply to an oil terminal facility that has an effective storage capacity of less than 5,000 barrels of crude oil or less than 10,000 barrels of noncrude oil.

Co-Chairman Samuels

March 22, 2005

Page 2

(b) The provisions of AS 46.04.030 and 46.04.040 do not apply to a natural gas production facility and a natural gas terminal facility; for purposes of this subsection the terms "natural gas production facility" and "natural gas terminal facility"

(1) mean a platform, facility, or structure that is used solely for the production, compression, storage, or transport of natural gas;

(2) do not include a platform, facility, or structure that produces, stores, or transports natural gas in combination with oil.

Subsection (b) exempts natural gas production and terminal facilities. Subsection (b) defines those facilities as "a platform, facility, or structure that is used solely for the production, compression, storage, or transport of natural gas" but as not including a platform, facility, or structure that produces, stores, or transports natural gas in combination with oil. AS 46.04.050(b)(2) (emphasis added).

Sections 4 and 5 of HB 197 make two clarifications to the exemption. First, section 5 moves the natural gas exploration and production facility exemption in AS 46.04.030(b) to a new subsection (c) in AS 46.04.050. Second, sections 4 and 5 clarify what is meant by the "exclusion" to the exemption for facilities that handle natural gas "in combination with oil." AS 46.04.050(b)(2). It is important to note that oil is defined very broadly in AS 46.04.900(13): as "oil of any kind and in any form, whether crude, refined, or a petroleum by-product, including but not limited to petroleum, fuel oil, gasoline, lubricating oils, oily sludge, oil refuse, oil mixed with other wastes, crude oils, liquified natural gas, propane, butane, or other liquid hydrocarbons regardless of specific gravity."

Sections 4 and 5 attempt to resolve any ambiguity in these provisions by defining "in combination with oil" as a facility that stores, produces, explores for, or transports natural gas in combination with crude oil and that crude oil does not include natural gas. New subparagraph (ii) addresses a natural gas exploration or production facility that stores refined petroleum products by providing that it would only need a C-plan or financial responsibility if it stores refined petroleum products in volumes exceeding those in AS 46.04.050(a) (10,000 barrels of noncrude oil). This reflects the Department of Environmental Conservation's interpretation of those provisions since the exemption in AS 46.04.050 was amended in 1992 to address natural gas facilities.

In sum, the definitions in sections 4 and 5 are attempts to clarify the current application of these requirements in light of the existing statutory definitions in AS 46.04.900. As a result, it is not necessary to amend sections 4 and 5 of the bill.

Co-Chairman Samuels

March 22, 2005

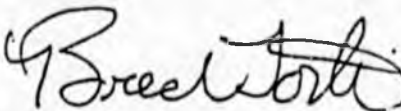
Page 3

It is also worth noting that -- like any other facility in the state -- a facility exempted from the C-plan requirements must still immediately contain and cleanup oil spills as required by AS 46.04.020 and is strictly liable for the costs and damages from a spill under AS 46.03.822.

I hope that this responds to the question raised by Representative Seaton. If I can provide additional assistance, please let me know.

Sincerely,

SCOTT J. NORDSTRAND  
ACTING ATTORNEY GENERAL

By: 

Breck C. Tostevin  
Assistant Attorney General

BCT/cam

cc: Rep. Kohring  
Rep. Ramras  
Rep. Seaton  
Acting Comm. Fredriksson  
Larry Dietrick  
Dan Seamont  
David Marquez  
Deborah Behr  
Rob Mintz  
Kevin Jardell

**HB**

**240**

24-LS0734B  
Luckhaupt  
4/29/06

**CS FOR HOUSE BILL NO. 240(RLS)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-FOURTH LEGISLATURE - SECOND SESSION**

**BY THE HOUSE RULES COMMITTEE**

**Offered:**  
**Referred:**

**Sponsor(s): HOUSE JUDICIARY COMMITTEE**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to brewery and brewpub licensing and to free samples of beer and**  
2 **wine provided by beverage dispensary licensees, wholesale licensees, and wholesale malt**  
3 **beverage and wine licensees."**

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

5 **\* Section 1.** AS 04.11.090 is amended by adding a new subsection to read:

6 (h) Unless prohibited by AS 04.16.030, a holder of a beverage dispensary  
7 license may provide a small sample of beer or wine free of charge to a customer on the  
8 licensed premises. Notwithstanding AS 04.11.015, a holder of a beverage dispensary  
9 license may advertise and promote the free samples to the public. A municipality may  
10 not prohibit or restrict a holder of a beverage dispensary license from advertising,  
11 promoting, offering, or providing free samples under this subsection.

12 **\* Sec. 2.** AS 04.11.130(b) is amended to read:

13 (b) The holder of a brewery license may sell beer in quantities of  
14 (1) not more [LESS] than five gallons a day to an individual who is

1 present on the licensed premises **for consumption off the premises:**

2 (2) more than five gallons **a day** to a person who is licensed under this  
3 title, or in another state or country.

4 \* **Sec. 3.** AS 04.11.130 is amended by adding a new subsection to read:

5 (e) Unless prohibited by AS 04.16.030, a holder of a brewery license may sell  
6 not more than 24 ounces a day of the brewery's product to a person for consumption  
7 on the premises if

8 (1) the brewery does not allow live entertainment, televisions, pool  
9 tables, dart games, dancing, electronic or other games, game tables, or other  
10 recreational or gaming opportunities on the premises where the consumption occurs;

11 (2) the brewery does not provide seats at the counter or bar where the  
12 product is served; and

13 (3) the room where the consumption occurs is not open before 9:00  
14 a.m. and serving of the product ends not later than 8:00 p.m.

15 \* **Sec. 4.** AS 04.11.135(a) is amended to read:

16 (a) A brewpub license authorizes the holder of a beverage dispensary license  
17 to

18 (1) manufacture on premises licensed under the beverage dispensary  
19 license not more than **465,000** [150,000] gallons of beer in a calendar year;

20 (2) sell beer manufactured on premises licensed under the beverage  
21 dispensary license for consumption on the licensed premises or other licensed  
22 premises of the beverage dispensary licensee that are also licensed as a beverage  
23 dispensary;

24 (3) sell beer manufactured on the premises licensed under the beverage  
25 dispensary license in quantities of not more than five gallons **a** [PER] day to an  
26 individual who is present on the licensed premises **for consumption off the premises;**

27 (4) provide a small sample of the brewpub's beer manufactured on the  
28 premises free of charge unless prohibited by AS 04.16.030; [AND]

29 (5) sell beer manufactured on the premises licensed under the beverage  
30 dispensary license to a person licensed as a wholesaler under AS 04.11.160; sales  
31 under this paragraph may not exceed **37,200 gallons in a calendar year, including**

1 under this paragraph may not exceed 37,200 gallons in a calendar year, including  
2 sales under (6) of this subsection; and

3 (6) sell not more than 6,200 gallons in a calendar year of beer  
4 manufactured on the premises to a person who is licensed under this title, or in  
5 another state or country, if the premises licensed under the beverage dispensary  
6 license are located in a community with a population of 75,000 or more [15,000  
7 GALLONS OR THE AMOUNT SOLD UNDER THIS PARAGRAPH IN  
8 CALENDAR YEAR 2001, PLUS 10 PERCENT, WHICHEVER AMOUNT IS  
9 GREATER].

10 \* Sec. 5. AS 04.11.135(d) is amended to read:

11 (d) Notwithstanding (a) of this section, the holder of a brewpub license who,  
12 under the provisions of AS 04.11.450(b), formerly held a brewery license and a  
13 restaurant or eating place license and who, under the former brewery license,  
14 manufactured beer at a location other than the premises licensed under the former  
15 restaurant or eating place license may

16 (1) manufacture not more than 465,000 [150,000] gallons of beer in a  
17 calendar year on premises other than the premises licensed under the beverage  
18 dispensary license;

19 (2) provide a small sample of the manufactured beer free of charge at  
20 the location the beer is manufactured unless prohibited by AS 04.16.030; and

21 (3) sell the beer authorized to be manufactured under this subsection

22 (A) on the premises licensed under the beverage dispensary  
23 license or other licensed premises of the beverage dispensary licensee that are  
24 also licensed as a beverage dispensary;

25 (B) to a wholesaler licensed under AS 04.11.160; sales under  
26 this subparagraph may not exceed 37,200 gallons in a calendar year,  
27 including sales under (D) of this paragraph; [15,000 GALLONS OR THE  
28 AMOUNT SOLD UNDER THIS SUBPARAGRAPH IN CALENDAR YEAR  
29 2001, PLUS 10 PERCENT, WHICHEVER AMOUNT IS GREATER; OR]

30 (C) to an individual who is present on the premises described  
31 under (A) of this paragraph, or where the beer is manufactured, in quantities of

1 not more than five gallons a [PER] day **for consumption off the premises;**  
2 **and**  
3 **(D) to a person licensed under this title, or in another state**  
4 **or country, if the premises where the beer is manufactured are located in**  
5 **a community with a population of 75,000 or more; sales under this**  
6 **subparagraph may not exceed 6,200 gallons in a calendar year.**

7 \* Sec. 6. AS 04.11.135(e) is amended to read:

8 (e) Notwithstanding (a) of this section, a brewpub license authorizes the  
9 holder of a restaurant or eating place license to (1) manufacture on premises licensed  
10 under the restaurant or eating place license not more than 465,000 [150,000] gallons of  
11 beer in a calendar year; (2) sell beer manufactured on premises licensed under the  
12 restaurant or eating place license for consumption on the licensed premises; (3) sell  
13 beer manufactured on the premises licensed under the restaurant or eating place  
14 license in quantities of not more than five gallons a [PER] day **for consumption off**  
15 **the premises** to an individual who is present on the licensed premises; and (4) provide  
16 a small sample of the brewpub's beer manufactured on the premises free of charge  
17 unless prohibited by AS 04.16.030. A person who holds a brewpub license under this  
18 subsection may not hold more than one brewpub license.

19 \* Sec. 7. AS 04.11.160 is amended by adding a new subsection to read:

20 (h) Unless prohibited by AS 04.16.030, a holder of a wholesale license or a  
21 wholesale malt beverage and wine license may provide a small sample of beer or wine  
22 free of charge to a customer on the licensed premises of a beverage dispensary  
23 licensee.

24 \* Sec. 8. AS 04.16.015(a) is amended to read:

25 (a) On premises where alcoholic beverages are sold by the drink, a licensee or  
26 a licensee's agent or employee may not

27 (1) **except as provided in AS 04.11.090(h)**, offer or deliver, as a  
28 marketing device to the general public, free alcoholic beverages to a patron;

29 (2) deliver an alcoholic beverage to a person already possessing two or  
30 more;

31 (3) sell, offer to sell, deliver alcoholic beverages to a person or group

- 1 of persons at a price less than the price regularly charged for the beverages during the  
2 same calendar week, except at private functions not open to the general public;
- 3 (4) sell, offer to sell, or deliver an unlimited number of alcoholic  
4 beverages to a person or group of persons during a set period of time for a fixed price;
- 5 (5) sell, offer to sell, or deliver alcoholic beverages to a person or  
6 group of persons on any one day at prices less than those charged the general public  
7 on that day, except at private functions not open to the general public;
- 8 (6) encourage or permit an organized game or contest on the licensed  
9 premises that involves drinking alcoholic beverages or the awarding of alcoholic  
10 beverages as prizes.

# FISCAL NOTE

**STATE OF ALASKA**  
**2006 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: CSHB 240(L&C)  
 (H) Publish Date: 4/18/06

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Public Safety  
 Title "An Act relating to brewery and brew pub licensing." RDU Alcoholic Beverage Control Board  
 Component ABC Board  
 Sponsor House Judiciary Committee  
 Requester House Labor and Commerce Committee Component No. 2690

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

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

| OPERATING EXPENDITURES | FY 2007    | FY 2008    | FY 2009    | FY 2010    | FY 2011    | FY 2012    |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services      |            |            |            |            |            |            |
| Travel                 |            |            |            |            |            |            |
| Contractual            |            |            |            |            |            |            |
| Supplies               |            |            |            |            |            |            |
| Equipment              |            |            |            |            |            |            |
| Land & Structures      |            |            |            |            |            |            |
| Grants & Claims        |            |            |            |            |            |            |
| Miscellaneous          |            |            |            |            |            |            |
| <b>TOTAL OPERATING</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

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

|                               |  |  |  |  |  |  |
|-------------------------------|--|--|--|--|--|--|
| <b>CHANGE IN REVENUES ( )</b> |  |  |  |  |  |  |
|-------------------------------|--|--|--|--|--|--|

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (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 will not have a fiscal impact on expenditures for the Department of Public Safety. A very small increase in revenues could be realized if any of the existing brewpubs were to upgrade to a brewery and pay the corresponding increased license fees.

Prepared by: Director Douglas B. Griffin  
 Division: Alcoholic Beverage Control Board  
 Approved by: Commissioner William Tandeske  
 Agency: Department of Public Safety

Phone 907-269-0351  
 Date/Time 3/21/06 9:02 AM  
 Date 3/21/2006

**Sponsor Statement HB 240**  
**"An Act relating to brewery and brew pub licensing"**

The Brewers Guild of Alaska represents six breweries and five brewpubs operating in the state of Alaska. We are a growing industry that employs hundreds of Alaskans. The Brewers Guild is united in this bill in an effort to foster more equitable competition with breweries and brewpubs from outside of Alaska, while not harming small breweries in Alaska. In the State of Alaska, brewpubs and brewery licenses are exclusive licenses with different competitive markets, although the regular citizen sees no difference in these entities. Both Brewpubs and Brewery Licensees benefit from this bill, but if any of the core content is changed, then there will be an inequitable competitive landscape for either the breweries or the brewpubs.

Brewpubs are legally restricted to sell to consumers for consumption on their licensed premises and, with limitations, to consumers for off-premise consumption and to all other licensees through a distributor. Breweries are legally restricted to sell their product for off-site consumption whether to consumers, wholesalers or other licensees; breweries are also allowed to provide free samples of their product. The proposed legislation is a compromise between these licensees in order to improve the competitive environments of brewpubs and breweries, while not creating a significant impact on the competitive environments of other interested licensees, such as dispensary license owners and distributors.

This legislation increases the amount of beer a brewpub can produce (often referred to as the "production cap") from 150,000 gallons to 465,000 gallons. This cap is based upon the typical industry definition of the top level of production of a "microbrewery." In addition, this legislation increases the amount of beer a brewpub can sell to a licensed wholesaler from 15,000 gallons to 46,500 gallons. Outside brewpubs do not have a cap on the amount of beer they can sell in Alaska.

Current law allows breweries to provide free samples of their products. This legislation allows breweries to also charge for samples as is now common in tasting rooms in other states. Although there have been concerns voiced that this allows breweries to act as "taverns", this legislation includes restrictions that will differentiate the tasting rooms from the "tavern" concept, such as limited on-premise sales of only their beer, restricted hours of operation and a well-defined environment. The sale of samples allows breweries to help defray the costs of on-premise sampling while still providing the promotional and educational aspects of product sampling.

Finally, this legislation allows brewpubs in Anchorage and Fairbanks to self-distribute up to 200 barrels of beer per year. Under current law, brewpubs are required to use a wholesaler to distribute any beer off-premise. However, sales at this level are not necessarily profitable for the wholesaler, so it is difficult for a brewpub to initially get its product to the market. This change could potentially eliminate a competitive advantage to breweries in smaller communities in our state, thus the limitation of a population of 75,000 has been put in place to not harm the smallest of breweries.

The Brewers Guild is in support of this bill in its entirety.

*From: Rep McQuire's website*

*http://ak.Republi-  
cans.com*

**Finance Office**  
3401 Denali St., 202-A  
Anchorage, Alaska  
99503



**Gary J. Klopfer**  
Member Manager/Owner  
Phone: (907) 561-2274  
Fax: (907) 563-9354

March 28, 2006

House Labor & Commerce Committee Members

Re: HB 240 – Brewery & Brewpub Licensing

Dear Committee Members;

I am writing this letter in support of HB 240 and asking for your support of this bill.

Our fledgling brewing industry in Alaska has gone through many changes in the last ten years and this new legislation will continue to support our industry. As an industry, we employ hundreds of Alaskans, we pay ten of thousands of dollars in taxes, we buy millions of dollars in suppliers from Alaskan vendors and we have spent millions of dollars in construction and renovation costs for our establishments in Alaska. We have accomplished this in just the last ten years and I might add without any state subsidies or hand outs! All we ask for our industry is to be treated fairly and equitably considering our financial impact on the communities where we live.

As an industry, we formed the Brewers Guild of Alaska (BGA), to work together (breweries and brewpubs) on issues that we feel are in our best interest and in the interest of the citizens and the economy of Alaska. The BGA wholeheartedly supports this bill and I hope that you will support it also.

Thank you for your time and if you have any questions, please call me or email me at [giklopfer@msn.com](mailto:giklopfer@msn.com).

Sincerely,

*Gary J. Klopfer*



**Craig Johnson**

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**From:** Ben Millstein/KODIAK ISLAND BREWING CO [bmills@ak.net]  
**Sent:** Tuesday, March 28, 2006 2:00 PM  
**To:** Craig Johnson  
**Subject:** HB 240

Greetings to all interested persons,

As a member of the Brewer's Guild of Alaska running the Kodiak Island Brewing Company, LLC. I would like to express my support for HB240. The Guild has worked long and hard to arrive at a bill that we can all support, and that we believe addresses the concerns of businesses outside our guild. What we propose is in no way unusual when other state laws are examined. Please support this bill, and feel free to call me if you have any questions about it.

Thank you.

Ben Millstein  
Manager,  
Kodiak Island Brewing Co. LLC



4/14/08

Representative Lesli McGuire  
Chair, House Judicial  
State Capitol, Room 118  
Juneau, AK 99801-1182

RE: HB 240, Brewery & Brewpub Licenses

Dear Representative McGuire:

The above referenced bill will change alcohol licensing laws for Brewers and Brewpubs. It also does away with the three-tier system which defines types of licenses in Alaska.

We have met with the Brewers and Brewpubs and decided in order for the majority (Beverage Dispensary Licenses) to agree with the bill, BDL's should also benefit from the licensing changes.

The Anchorage CHARR board members agreed to compromise with the following:  
36 ounces for sale at Breweries  
Closing at 8pm for Breweries  
Delete "tasting rooms" or "rooms" from the bill and replace with licensed establishments  
Insert amendment (below) to benefit BDL's

Recommended language by the Anchorage CHARR board to read as follows:

**Notwithstanding (a) and (b) of this section, a beverage dispensary licensee or a licensee's agent or employee, or a holder of a general wholesale, wholesale beer beverage and wine licenses by non-resident brewer or the agent or employee of these licensees may provide, without charge, any customer a small sample of beer or wine for promotional purposes.**

It was our understanding throughout our negotiations with the brewpubs this would be included in the bill. It has been brought to our attention there is denial by the brewpubs of supporting this amendment and the wholesalers have now backed off on pushing the amendment forward. Frankly, we are tired of the less than honorable approach this group has exhibited throughout the negotiations. We never would have met with the brewpubs and breweries if we knew this was the end goal. If the above amendment is not included in HB240, Anchorage CHARR will oppose this bill.

The issue is simplistic: If the Brewpubs want to brew more beer they should apply for a brewer's license. If the Breweries want to sell individual beer they should apply for a full beverage dispensary license. We have heard the brewpub and brewery excuses and know they are unsubstantiated.

The reality is: It is cheaper and easier to change licensing legislation than it is to purchase the proper license to accomplish goals. This bill with the above amendment is designed to benefit all licensees, not for the profit of a few. What we appear to have is a stalemate and request time for further negotiations regarding our amendment.

Thank you!

Sincerely,

Chuck Edwards  
Government Affairs Chair

P.O. Box 111369, Anchorage, AK, 99511, 907 227-3423

**HB**

**249**

*Coghill  
ask w/ind  
nes + p.../n*

24-LS0853V  
Cook  
4/27/05

*4/30/05  
Coghill moved  
adopted*

**CS FOR HOUSE BILL NO. 249( )**

**IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

**BY**

**Offered:  
Referred:**

**Sponsor(s): REPRESENTATIVES HAWKER, Holm, Olson, Lynu, Dahlstrom**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to enhanced 911 systems and enhanced 911 surcharges imposed by a  
2 municipality, public municipal corporation, or village."

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

4 \* **Section 1.** AS 29.10.200(37) is amended to read:

5 (37) AS 29.35.131 - 29.35.137 [AS 29.35.131] (enhanced 911 system);

6 \* **Sec. 2.** AS 29.35.131(a) is amended to read:

7 (a) A municipality may, by resolution or ordinance, elect to provide an  
8 enhanced 911 system at public safety answering points and [,] may purchase or lease  
9 the enhanced 911 equipment or service required to establish or maintain an enhanced  
10 911 system at public safety answering points from a local exchange telephone  
11 company or other qualified vendor. The municipality [, AND] may impose an  
12 enhanced 911 surcharge [, IN AN AMOUNT TO BE DETERMINED BY THE  
13 MUNICIPALITY, ON ALL LOCAL EXCHANGE ACCESS LINES THAT  
14 PROVIDE TELEPHONE SERVICE TO WIRELINE TELEPHONES IN THE AREA

1 TO BE SERVED BY THE ENHANCED 911 SYSTEM. A MUNICIPALITY THAT  
2 PROVIDES SERVICES UNDER AN ENHANCED 911 SYSTEM MAY ALSO BY  
3 RESOLUTION OR ORDINANCE IMPOSE AN ENHANCED 911 SURCHARGE  
4 ON EACH WIRELESS TELEPHONE NUMBER THAT IS BILLED TO AN  
5 ADDRESS] within the enhanced 911 service area. An [FOR A MUNICIPALITY  
6 WITH A POPULATION OF 100,000 OR MORE, AN ENHANCED 911  
7 SURCHARGE MAY NOT EXCEED 50 CENTS PER MONTH FOR EACH  
8 WIRELESS TELEPHONE NUMBER OR 50 CENTS PER MONTH FOR EACH  
9 LOCAL EXCHANGE ACCESS LINE FOR WIRELINE TELEPHONES. FOR A  
10 MUNICIPALITY WITH FEWER THAN 100,000 PEOPLE, AN] enhanced 911  
11 surcharge may not exceed \$2.00 [75 CENTS] per month for each wireless telephone  
12 number and \$2.00 [OR 75 CENTS] per month for each local exchange access line for  
13 wireline telephones. The maximum surcharge amount of \$2.00 provided for in  
14 this subsection may be increased above that level if the surcharge amount is  
15 approved by the voters of the enhanced 911 service area. The amount of  
16 surcharge imposed for each wireless telephone number must equal the amount  
17 imposed for each local exchange access line for a wireline telephone. An enhanced  
18 911 service area may be all of a city, all of a unified municipality, or all or part of the  
19 area within a borough and may include the extraterritorial jurisdiction of a  
20 municipality in accordance with AS 29.35.020. The governing body of a municipality  
21 shall review an enhanced 911 surcharge annually to determine whether the current  
22 level of the surcharge is adequate, excessive, or insufficient to meet anticipated  
23 enhanced 911 system needs. When a municipality imposes an enhanced 911  
24 surcharge or the amount of the surcharge is changed, the municipality shall  
25 notify in writing the telephone customers subject to the surcharge and provide an  
26 explanation of what the surcharge will be used for [THE MUNICIPALITY MAY  
27 ONLY USE THE ENHANCED 911 SURCHARGE FOR THE ENHANCED 911  
28 SYSTEM].

29 \* Sec. 3. AS 29.35.131 is amended by adding new subsections to read:

30 (i) A municipality may only use the enhanced 911 surcharge revenue for those  
31 costs of the enhanced 911 system that are authorized in this subsection. The surcharge

1 revenue may not be used for any capital or operational costs for emergency responses  
2 that occur after the call is dispatched to the emergency responder. The surcharge  
3 revenue may not be used for constructing buildings, leasing buildings, maintaining  
4 buildings, or renovating buildings, except for the modification of an existing building  
5 to the extent that is necessary to maintain the security and environmental integrity of  
6 the public safety answering point and equipment rooms. The surcharge revenue may  
7 be used for the following costs to the extent the costs are directly attributable to the  
8 establishment, maintenance, and operation of an enhanced 911 system:

9 (1) the acquisition, implementation, and maintenance of public safety  
10 answering point equipment and 911 service features;

11 (2) the acquisition, installation, and maintenance of other equipment,  
12 including call answering equipment, call transfer equipment, automatic number  
13 identification controllers and displays, automatic location identification controllers and  
14 displays, station instruments, 911 telecommunications systems, teleprinters, logging  
15 recorders, instant playback recorders, telephone devices for the deaf, public safety  
16 answering point backup power systems, consoles, automatic call distributors, and  
17 hardware and software interfaces for computer-aided dispatch systems;

18 (3) the salaries and associated expenses for 911 call takers for that  
19 portion of time spent taking and transferring 911 calls;

20 (4) training costs for public safety answering point call takers in the  
21 proper methods and techniques used in taking and transferring 911 calls;

22 (5) expenses required to develop and maintain all information  
23 necessary to properly inform call takers as to location address, type of emergency, and  
24 other information directly relevant to the 911 call-taking and transferring function,  
25 including automatic location identification and automatic number identification  
26 databases.

27 (j) If a city in an enhanced 911 service area established by a borough incurs  
28 costs described under (i) of this section for the enhanced 911 system, before the  
29 borough may use revenue from an enhanced 911 surcharge, the borough and city must  
30 execute an agreement addressing the duties and responsibilities of each for the  
31 enhanced 911 system and establishing priorities for the use of the surcharge revenue.

1 If the Department of Public Safety also provides services as part of the enhanced 911  
2 system or uses the enhanced 911 system in that enhanced 911 service area, the  
3 department must be a party to the agreement.

4 (k) For purposes of (i) of this section, "call taker" means a person employed in  
5 a primary or secondary answering point whose duties include the initial answering of  
6 911 or enhanced 911 calls and routing the calls to the agency or dispatch center  
7 responsible for dispatching appropriate emergency services and a person in a primary  
8 or secondary answering point whose duties include receiving a 911 or enhanced 911  
9 call either directly or routed from another answering point and dispatching appropriate  
10 emergency services in response to the call; the term "call taker" is synonymous with  
11 the term "dispatcher" in that it is inclusive of the functions of both answering the 911  
12 or enhanced 911 calls and dispatching emergency services in response to the calls.

13 \* Sec. 4. AS 29.35 is amended by adding a new section to read:

14 **Sec. 29.35.134. Multi-line telephone systems.** A municipality may by  
15 ordinance elect to require an enhanced 911 system from a multi-line telephone system.  
16 A multi-line telephone system operator must arrange to update the automatic location  
17 identification database with an appropriate master street address guide, valid address,  
18 and callback number for each multi-line telephone system telephone, so that the  
19 location information specifies the emergency response location of the caller. A multi-  
20 line telephone system operator is considered to be in compliance with this section  
21 when the multi-line telephone system complies with enhanced 911 generally accepted  
22 industry standards as defined by the Regulatory Commission of Alaska. For purposes  
23 of this section,

24 (1) "call back number" means a number used by the public safety  
25 answering point to re-contact the location from which a 911 call is placed; the number  
26 may or may not be the number of the station used to originate the 911 call;

27 (2) "emergency response location" means the location to which a 911  
28 emergency response team may be dispatched that is specific enough to provide a  
29 reasonable opportunity for the emergency response team to quickly locate a caller  
30 anywhere within it;

31 (3) "master street address guide" means a database of formatted street

1 names, numerical addresses or address ranges, and other parameters defining valid  
2 locations and emergency services zones, and their associated emergency services  
3 numbers, that enables the proper routing and response to 911 calls;

4 (4) "multi-line telephone system" means a system made up of common  
5 control units, telephone sets, and control hardware and software, including network  
6 and premises based systems such as Centrex and PBX, Hybrid, and Key Telephone  
7 Systems, as classified by the Federal Communications Commission under Part 68  
8 Requirements, and including systems owned or leased by governmental agencies or  
9 nonprofit entities, as well as for profit entities;

10 (5) "multi-line telephone system operator" means an entity that owns,  
11 leases, or rents from a third party, and operates a multi-line telephone system through  
12 which a caller may place a 911 call through a public switched network.

13 \* Sec. 5. AS 29.35 is amended by adding a new section to read:

14 **Sec. 29.35.138. Application.** AS 29.35.131 - 29.35.137 apply to home rule  
15 and general law municipalities.

16 \* Sec. 6. AS 29.35.131(h) is repealed.

Sec. 29.35.131. 911 surcharge.

...

(h) This section applies to home rule and general law municipalities.