

11931 SENATE LABOR & COMMERCE

**HB**

**274**

# SENATE COMMITTEE REPORT

TE: 2/23/06

FURTHER: Finance

DATE TURNED  
IN TO OFFICE: \_\_\_\_\_

For & Commerce Committee considered CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 274(FIN)

## HB 274 PUBLIC ACCOUNTANTS

in Act relating to the practice of accounting; and providing for an effective date."

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

**CS Senate Bill:**

- Same Title
- New Title

**SCS House Bill:**

- Same Title
- Technical Title Change
- New Title w/ SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
<i>Betty Davis</i>	X			
<i>De Ellis</i>	✓			
<i>Halpin Jenkins</i>	✓			
<i>Don Stevens</i>	✓			
CHAIR: <i>C Bundy</i>	✓			

# FISCAL NOTE

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

Fiscal Note Number: 1  
 Bill Version: CSSHB 274(L&C)  
 (H) Publish Date: 2/3/06

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Commerce  
 Title: Public Accountants RDU: Corp. Bus & Prof Licensing (117)  
 Component: Corp. Bus & Prof Licensing  
 Sponsor: Hawker  
 Requester: Labor & Commerce Component No: 2360

**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>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1156 Receipt Supported Services						
<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)

SSH B 274 makes changes to AS 08.04 governing the licensure and practice of accountants in Alaska. New funds are not required to implement the provisions of this bill.

Prepared by: Jennifer Strickler, Chief  
 Division: Corporations and Licensin  
 Approved by: William C. Noll, Commissioner  
 Agency: Commerce, Community and Economic Development

Phone: (907) 465-2144  
 Date/Time: 1/30/06 11:57 AM  
 Date: 1/30/2006



ALASKA SOCIETY OF CPAs  
341 W TUDOR #105  
ANCHORAGE, AK 99503  
(907) 562-4334  
800-478-4334  
FAX (907) 562-4025

January 12, 2006

Representative Mike Hawker  
State Capitol  
Room 502  
Juneau, Alaska 99801-1182

Dear Representative Hawker,

Below is the Alaska Society of Certified Public Accountants board of Directors resolution that was unanimously approved on January 9, 2006 in support of House Bill No. 274.

**Resolved:** The Alaska Society of CPA's Board of Directors unanimously agrees to Support the following proposed statute changes: Amend AS 08.04.005-680 as encompassed in the Sponsor Substitute for House Bill No.274 as drafted December 2, 2005.

The board of Directors of the Alaska Society of Certified Public Accountants and all the members of the Alaska Society of Certified Public Accountants would like to thank you and your staff for your tireless efforts in moving House Bill No. 274 forward.

Sincerely,

Donovan W. Rulien, CPA, CVA  
Chairman of the Legislative Committee



**Frank H. Murkowski, Governor**

Division of Corporations, Business and Professional Licensing  
PO Box 110806  
Juneau, AK 99811-0806  
Telephone: (907) 465-2534  
Fax: (907) 465-2974  
Website: [www.commerce.state.ak.us/occ/](http://www.commerce.state.ak.us/occ/)

January 26, 2006

Representative Mike Hawker  
State Capital  
Room 502  
Juneau, Alaska 99801-1182

Dear Representative Hawker,

Following is the Alaska Board of Public Accountancy's resolution that was unanimously approved on January 26, 2006 in support of House Bill 274.

**Be it resolved: The Alaska Board of Public Accountancy unanimously supports the Sponsor Substitute for House Bill 274 in the legislature of the State of Alaska.**

The Alaska Board would like to thank you and your staff for all your time and effort in moving House Bill 274 forward.

Sincerely,

A handwritten signature in cursive script, appearing to read "Max Mertz".

Max Mertz, CPA  
Chairperson  
Alaska Board of Public Accountancy

**Don Bremner**  
PO Box 20161  
Juneau, Alaska 99802  
Ph: 907-463-7124  
E-mail: [dbremner@gci.net](mailto:dbremner@gci.net)

Feb 1, 2006

RE: Supportive Comment on SSHB 274

Dear Representative Anderson and members of the Committee;

My name is Don Bremner, I'm a Board of Director of the Yak-Tat Kwaan, Inc.(YKI) Native village corporation in Yakutat Alaska. YKI is formed under ANCSA of 1971 and State corporation laws.

I'm here to speak in favor of SSHB 274.

There are a couple of reasons that make clear the need for this Bill;

1. This Bill draws a clear line between qualified and unqualified accountants and accounting services.
2. This Bill addresses accountability and liability.

In my past experience as President of Yak-Tat Kwaan, Inc, and serving as an officer of other Profit-making and Non-Profit-making Native Corporations we encountered all levels of accounting services. I can say from experience, that when accounting services are bad, it is really bad for small companies that count on every dollar to succeed.

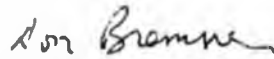
As Native Corporations we are exposed to every scheme and scam that folks can dream up, and they have cost us millions of dollars. I know of one Native corporation that was exposed to a Ponzi scheme that cost them over (7) million dollars.

These illegal investment schemes promised the Native Corporation investors impossibly high returns on their investments. These are scams in which money from later investors is used to pay earlier investors. The creators of the scheme get most of the profits while those who come later are left with nothing because there are eventually an insufficient number of new investors to pay the existing ones. These scams inevitably collapsed because they require exponential growth in the number of participants at each step, which is impossible. The Native Corporation was left holding an empty bag in the end, and out (7) million dollars.

During this time period there was not one negative flag raised by the Native Corporation accounting firm. In the end, the scheme was smoothly reported in the annual report as investment losses. Clearly there was no accountability and liability of the accountant's role.

This Bill sets the high standards of accountability that is needed by businesses in Alaska that manage very challenging businesses, even on a good day. In most cases we do not have the education to implement and monitor the fine detail of accounting, so, we operate on faith. Faith that the accountants who work on our behalf are who they say they are in terms of experience and qualifications. It speaks well of the accounting profession, that in this Bill they set high standards for themselves, and I encourage the Committee to support this Bill and move it forward for approval.

Sincerely,



Don Bremner

Cc/ House Labor & Commerce Committee Members

# Representative Mike Hawker

## Alaska State Legislature



### Session:

State Capitol  
Juneau, AK 99801  
907 465-4949 direct  
800 478-4950 toll free  
907 465-4579 fax

### Interim

716 W 4<sup>th</sup> Avenue  
Anchorage, AK 99501  
907 269-0244 office  
907 269-0248 fax

### Member

House Finance Committee  
Legislative Budget  
& Audit Committee

### House District 32

Eagle River  
Anchorage  
Rainbow  
Indian  
Urd  
Cordwood  
Portage  
Whittier  
Souris  
Hope

## House Bill 274

### Sponsor Statement

**"An Act relating to the practice of accounting; and providing for an effective date."**

HB 274 updates Alaska's statutory framework regulating the professional practice of accounting. This bill moves our statutes toward the standardized structure recommended in the model National Uniform Accountancy Act developed by the American Institute of Certified Public Accountants.

Adopting these changes will facilitate the practice of Alaska public accountants in other jurisdictions, ensure the qualifications of non-resident public accountants practicing in Alaska and aid the conduct of interstate commerce. These more contemporary statutes are important to keep Alaska competitive in today's dynamic international business environment and provide the greatest possible consumer protection for the public relying upon the work performed by Certified Public Accountants.

HB 274 increases the supervision and regulation of public accountants who provide auditing services; establishes a mechanism to grant temporary practice privileges to public accountants and public accounting firms licensed in other states; expands peer quality review requirements; and ensures that public accountants meet appropriate education and experience standards.

The Alaska Society of Certified Public Accountants and the Alaska Board of Public Accountancy support House Bill 274.

Staff Contact:

Revised 2/15/2006

## Sponsor Statement

rep.mike.hawker@l

licans.org/hawker/

## **Sponsor Substitute for House Bill 274**

### **Version: CSSSHB 274(FIN)**

Prepared by Representative Mike Hawker's Office

Updated February 13, 2006

**Note:** Throughout this document "conforming language" changes generally refer to adopting contemporary legislative drafting conventions or incorporating newly defined terms without making substantive changes in existing statutes.

- Section 1:** Conforms language in existing statutes regarding exemptions to the Revised Alaska Trust Company Act.
- Section 2:** Updates terminology in the "purpose" section of the public accounting statutes replacing the word "accountancy" with "accounting" when referring to the public "accounting" profession.
- Section 3:** Conforms language in the section setting qualifications for members of the Board of Public Accountants.
- Section 4:** Conforms language in the section regarding removal of board members.
- Section 5:** Operates in conjunction with bill section 22 to allow a practice privilege to be granted to an applicant whose qualifications are "substantially equivalent" to standards established by the board. This section requires the board to determine if the qualifications of another state or an applicant are substantially equivalent to either the national standard or another standard established by the board.
- Section 6:** Requires the board to notify permit/license holders of proposed changes by mail, but eliminates requirement for the mail to be certified, return receipt. This is a cost containment initiative requested by the board.
- Section 7:** Requires the board to adopt specific regulations defining attest functions. Allows the board to use criteria established by a nationally recognized professional organization for accountants. This section operates in conjunction with bill sections 23 and 25 increasing supervision and regulation of licensees performing attest function.
- Section 8:** Clarifies that a certificate does not authorize a CPA to practice – a license is also required. This is current practice but the disclaimer is printed on the certificate and does not appear in statute.
- Section 9:** Replaces code section AS 08.04.390, which is repealed by section 49 of this bill. Specifies requirements for an individual to receive a license to engage in the practice of public accounting and requirements for renewal of a license.
- Section 10:** Conforms language in the section regarding personal requirements.
- Section 11:** Requires CPA applicants to have a baccalaureate degree with an accounting concentration and two years experience. The alternate provision in current law allowing an applicant to have a baccalaureate degree in any subject and three years of experience is eliminated.

- Section 12:** Conforms language in the section regarding examinations.
- Section 13:** Conforms language in the section regarding prior applicants.
- Section 14:** 1) Makes conforming changes in the section regarding reciprocity with other jurisdictions.
- 2) Changes the reciprocity requirement for experience outside Alaska from five to four years. This change conforms Alaska statute to provisions of the "Uniform Accountancy Act" published by the American Institute of Certified Public Accountants.
- Section 15:** Specifies requirements for renewal of a license granted through reciprocity.
- Section 16:** Conforms language in the section regarding an individual's use of the title "Certified Public Accountant."
- Section 17:** Conforms language in the section grandfathering certificates held on April 26, 1960.
- Section 18:** Adds "or other legal entity" to the section regarding registration of partnerships, limited liability companies, and corporations. This is a "catch-all" clause anticipating continued evolution and emergence of business organizational structures. Updates and conforms related language in this section.
- Section 19:** New subsection replaces section AS 08.04.400, which is repealed by section 49 of this bill. Specifies how long a permit is valid and provides a renewal procedure. Allows a partnership that was registered on June 29, 1980 to qualify for a permit if each partner holds a license or permit to engage in public accounting. Adds registration requirements for an "other legal entity" recognized in bill section 16 consistent with existing requirements for partnerships, limited liability companies, and corporations.
- Section 20:** Conforms language in the section requiring all practice offices to be supervised by a licensed individual.
- Section 21:** Prohibits use of the title "Certified Public Accountant" in connection with an accounting office unless the supervision requirement of AS 08.04.360 is satisfied. This is mostly conforming language.
- Section 22:** Conforms language in the section allowing the board to waive office and supervision requirements for offices in communities with 2,000 or less residents if the accounting firm maintains another office in the state that meets the supervision requirements.
- Section 23:** Conforms language in the section allowing former licensees who are not practicing to inactivate and maintain their license in good standing by notifying the board and paying a fee.

- Section 24:** Repeals and reenacts the section providing specific criteria under which individuals and firms whose principal place of business is in another state may be permitted to practice in Alaska.
- Section 25:** New section requiring a licensee to meet competency requirements established by the board before performing attest functions.
- Section 26:** Conforms language in the section regarding continuing education.
- Section 27:** Repeals and reenacts language regarding quality reviews to more accurately reflect current practice. Also adopts conforming language.
- Section 28:** Conforms language in the section regarding failure to obtain a permit.
- Section 29:** Conforming changes to the section regarding revocation of a license, practice privilege or permits. Adds authority to revoke if the permittee/licensee has committed an act in another for which they would be disciplined if the act had been committed here.
- Section 30:** Conforms language in the section regarding revocation or suspension of permits.
- Section 31:** Conforms language in the section regarding grounds for revocation or suspension of permits.
- Section 32:** Conforms language in the section regarding reinstatement.
- Section 33:** Conforms language in the section regarding fees.
- Section 34:** Conforms language in the section regarding individuals posing as certified public accountants.
- Section 35:** Conforms language in the section regarding issuance of reports.
- Section 36:** Conforms language in the section regarding companies posing as certified public accountants.
- Section 37:** Conforms language in the section regarding individuals posing as public accountants.
- Section 38:** Conforms language in the section regarding companies posing as public accountants.
- Section 39:** Conforms language in the section regarding use of deceptive titles or abbreviations.
- Section 40:** Conforms language in the section regarding individuals assuming titles of public accounts.
- Section 41:** Conforms language in the section regarding partnerships posing as accountants or auditors.
- Section 42:** Conforms language in the section regarding the use of title with corporate name.

- Section 43:** Conforms language in the section regarding the use of title with limited liability company name.
- Section 44:** New section to conform prohibition for use of title to the name of other entity. Required by inclusion of "other entity" in bill section 18.
- Section 45:** Conforms language in the section regarding disclosure of lack of a permit.
- Section 46:** Conforms language in the section regarding deceptive use of title by a partnership, limited liability company, corporation or other entity.
- Section 47:** Conforms language in the section regarding exceptions to the statute.
- Section 48:** Removes an obsolete provision in statute regarding board action to reflect the current practice of investigating violations.
- Section 49:** Removes an obsolete term in the section regarding ownership of working papers.
- Section 50:** Conforms language in the section regarding previous licensure.
- Section 51:** Conforming language in the section regarding prohibited disclosures.
- Section 52:** Definitions section. Specifies that the definitions in this section do not apply if context dictates otherwise. Adds definitions for the following terms: attest function, legal entity, partnership, permit, practice of public accounting, practice privilege, and principal place of business. Amends the definition of "certificate" by adding a statutory reference; amends the definition of "report" by adding disclaimer language endorsed in the Uniform Accounting Act to existing "safe harbor" language.
- Section 53:** Repeals sections of law that are obsolete. The sections are embodied in various sections of the bill.
- Section 54:** Allows the board to adopt regulations to implement the bill.
- Section 55:** Provides transitional provisions for current permittees.
- Section 56:** Provides transitional provisions for current board members.
- Section 57:** Immediate effective date for section 54.
- Section 58:** Provides a January 1, 2008 effective date for the remaining sections.

**HB**

**338**

# SENATE COMMITTEE REPORT

DATE: 3/20/06

FURTHER: Finance

DATE TURNED  
IN TO OFFICE: \_\_\_\_\_

Labor and Commerce Committee considered CS FOR HOUSE BILL NO. 338 (L&C)

## HB 338 CERTIF. OF FITNESS FOR EXPLOSIVE HANDLERS

An Act relating to applications, qualifications, and criminal history and background checks for a certificate of fitness for explosives handlers; and providing for an effective date."

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

<b>CS Senate Bill:</b>	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
<b>SCS House Bill:</b>	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Betty Davis</i>	X			
<i>Kalvin Perkins</i>	✓			
<i>Ken Starn</i>	X			
CHAIR: <i>C. Bendo</i>	✓			

# FISCAL NOTE

STATE OF ALASKA  
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: CSHB 338(L&C)  
(H) Publish Date: 2/17/06

Revision Date/Time (Note if correction): \_\_\_\_\_ Department: Labor and Workforce Development  
Title: Certificate of Fitness for Explosive Handlers RDU: Labor Standards and Safety  
Sponsor: Representative Chenault Component: Mechanical Inspection  
Requester: House Labor & Commerce Component Number: 346

**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>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY2006) cost: None  
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 requires criminal history and background checks for a Certificate of Fitness for explosive handlers. There is no anticipated financial impact to the department as a result of this legislation

Prepared by: Grey Mitchell, Director Phone: (907) 465-4855  
Division: Labor Standards & Safety Date/Time: 1/5/06 2:41 PM  
Approved by: Greg O'Clary, Commissioner Date: 1/5/2006  
Agency: Department of Labor and Workforce Development

# FISCAL NOTE

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

Fiscal Note Number: 2  
 Bill Version: CSHB 338(L&C)  
 (H) Publish Date: 2/17/06

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Public Safety  
 Title An Act relating to certificates of fitness RDU Statewide Support  
for explosives handlers Component Criminal Records and ID  
 Sponsor Representative Chenault  
 Requester Labor & Commerce Committee Component No. 1190

**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>						
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<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 bill creates a process for the certification of explosives handlers by the Department of Labor and Workforce Development. This process includes the requirement that the applicant for a certificate submit fingerprints and fees for a national criminal history check to be performed by the Department of Public Safety under AS 12.62.400. The language of this bill is consistent with other statutes for criminal history checks that have been approved by the FBI.

The Department of Public Safety will be able to perform these additional criminal history checks with no fiscal impact.

Prepared by: Director David Schade Phone 269-0202  
 Division: Statewide Services Date/Time 1/17/06 1:30 PM  
 Approved by: Commissioner William Tandeske Date 1/17/2006  
 Agency: Department of Public Safety

# Alaska State Legislature

**Interim:**  
145 Main St. Loop, Suite 220  
Kenai, AK 99611  
Phone: (907) 283-7223  
Fax: (907) 283-7184



**Session:**  
Alaska State Capitol, Room 505  
Juneau, AK 99801-1182  
Phone: (907) 465-3779  
Fax: (907) 465-2833  
Toll Free: (800) 469-3779

**Representative Mike Chenault**  
District 34

## **Sponsor Statement** **HB 338**

**Title: "An Act relating to applications, qualifications, and criminal history and background checks for a certificate of fitness for explosives handlers; and providing for an effective date."**

The Alaska Department of Labor and Workforce Development has authority under AS 08.52.010-100 to issue a license known as a certificate of fitness to work with explosives in Alaska. The department currently requires explosive handler license applicants to submit to a criminal background check within Alaska; however, this check does not require finger prints to verify proper identification and does not capture criminal acts the applicant may have committed in other states. To help ensure that an explosive handler's license is not issued to an individual that may cause a national security threat or a threat to Alaskans, it is necessary to have a statutory requirement for a fingerprint based nationwide background check.

The Alaska Department of Public Safety is not authorized to provide a nationwide fingerprint based criminal background check for licensing purposes, unless it is required by state or federal law. This bill will provide the necessary statutory authority for the Alaska Department of Public Safety to perform a fingerprint based nationwide criminal history search and to provide the data to the Alaska Department of Labor and Workforce Development.

**Sponsor Statement**

# LEGAL SERVICES

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

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


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

## MEMORANDUM

March 3, 2006

**SUBJECT:** Explosives Handlers CSHB 338(L&C)  
(Work Order No. 24-LS1380F)

**TO:** Representative Mike Chenault  
Attn: Lanie

**FROM:** Jean M. Mischel  
Legislative Counsel 

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and that the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

**Section 1.** Adds a criminal background check to the requirements for submission of an application for a certificate of fitness for an explosives handler.

**Section 2.** Specifies, in a new section, a fingerprint and fee procedure for conducting criminal background checks of explosives handlers.

**Section 3.** Adds a criminal background check to the requirements for issuance of a certificate of fitness for an explosives handler.

**Section 4.** Requires the Department of Community, Commerce and Economic Development to establish standards in regulation for issuing a certificate of fitness to an explosives handler.

**Section 5.** Adds certificates of fitness for explosives handlers to the list of occupations needing a criminal background check.

**Section 6.** Provides an immediate effective date.

JMM:med  
06-190.med

Sectional Analysis

**HB**

**377**

## SENATE COMMITTEE REPORT

DATE: 4/21/06

FURTHER: Finance

DATE TURNED  
IN TO OFFICE: \_\_\_\_\_

Labor and Commerce Committee considered CS FOR HOUSE BILL NO. 377(L&C) am

### HB 377 EXEMPTION: RES. BLDG. DRAWINGS & SPECS

"An Act relating to an exemption from certain registration and practice requirements for persons preparing drawings or specifications related to the construction of certain buildings and the grounds of the buildings."

and recommends:

be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)

adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)

attached amendment(s)

adopt Letter of Intent by \_\_\_\_\_ Committee

further referral to \_\_\_\_\_ Committee

**CS Senate Bill:**

- Same Title
- New Title

**SCS House Bill:**

- Same Title
- Technical Title Change
- New Title w/ SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	NO REC	AMEND
<i>Betty Davis</i>	X			
<i>[Signature]</i>			X	
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
CHAIR: <i>[Signature]</i>	✓			



DEPARTMENT OF  
**COMMERCE**  
COMMUNITY AND  
ECONOMIC DEVELOPMENT

*Frank H. Murkowski, Governor*  
*William C. Noll, Commissioner*  
*Rick Urias, Director*

Division of Corporations, Business and Professional Licensing

Board of Registration for Architects, Engineers, and Land Surveyors

26 April 2006

Representative Kevin Meyer  
State Capitol  
Juneau, AK 99801

Subject: House Bill 377

Representative Meyer:

This letter confirms that the AELS Board supports the following amendment to HB 377:

**"(ii) two families and that is not more than three stories high and the grounds of the building, if the building is located in a municipality that has adopted an applicable building or residential code and the building complies with the building or residential code."**

Respectfully submitted,

Kenneth D. Maynard, FAIA  
Chair



Residential Construction &amp; Land Development

9420 Vanguard Dr, Unit A, Anchorage, Alaska 99507 (907) 345-0371 Fax (907) 345-6934 www.colonybuildersak.com

April 27, 2006

Senate Labor and Commerce

Re: House Bill 377

Mr. Chairman:

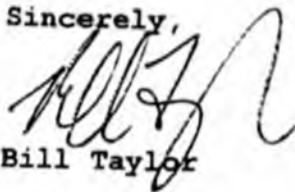
In lieu of testimony today, I wanted to outline my thoughts for House Bill 377. I am in favor of the bill for the following reasons:

- There is a general shortage of registered engineers that perform residential wind and seismic calculations.
- The shortage can cause unnecessary delays in construction scheduling.
- The Bill offers the design community an opportunity to complete the project that was started without any disruption.
- The Bill should also take some pressure off an engineering community that is generally not interested in this type of work.
- The unnecessary cost of the additional engineering can be avoided and therefore will not be passed along to an already maxed out consumer that is shouldering the load of extremely high housing costs.

The Bill makes the state statute language consistent with the adopted International Residential and Building Codes.

If you have any questions or concerns, I can be reached at 345-0371.

Sincerely,



Bill Taylor

AMENDMENT

OFFERED IN THE SENATE

TO: CSHB 377(L&C) am

*adopted*

*order CS*

- 1 Page 2, lines 23 - 24:
- 2 Delete all material.
- 3 Insert "is located in a municipality that has adopted a building or residential code
- 4 that applies to the building and if the building complies with the building or residential
- 5 code:"

# FISCAL NOTE

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

Fiscal Note Number: 1  
 Bill Version: CSHB 377(L&C)  
 (H) Publish Date: 3/6/06

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Commerce  
 Title: Exemption: Res. Bldg. Drawing & Specs RDU: Corp. Bus & Prof Licensing (117)  
 Component: Corp. Bus & Prof Licensing  
 Sponsor: Meyer  
 Requester: Labor and Commerce Component No.: 2360

**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>						
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<b>CHANGE IN REVENUES ( )</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>
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1156 Receipt Supported Services						
<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 amends AS 08.48.331(a) by making an exemption from certain registration and practice requirements for persons preparing drawings or specifications related to the construction of certain buildings. New funds are not required to implement the provisions of this legislation.

Prepared by: Katherine Mason, Administrative Manager Phone: (907) 465-2572  
 Division: Corporations, Business and Professional Licensing Date/Time: 2/23/06 3:05 PM  
 Approved by: William C. Noll, Commissioner Date: 2/23/2006  
 Agency: Commerce, Community, and Economic Development



# REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 30

## MEMORANDUM

**DATE:** February 15, 2006  
**TO:** Representative Kevin Meyer  
**FROM:** Mike Pawlowski  
**RE:** Sectional Analysis for HB 377  
(Version No. 24 - LS1471\A)

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As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Amends the exemption to the requirements of title 8 chapter 48 in AS 08.48.331 (a) (6) (C) for residential buildings smaller than a four-plex to three from two stories.



# REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 30

## SPONSOR STATEMENT

HB 377

***"An Act relating to an exemption for certain registration and practice requirements for persons preparing drawings or specifications related to the construction of certain buildings."***

State law requires that an engineer or architect prepare drawings or specifications for a residence if it is more than two stories high. However, the building codes adopted by the State Fire Marshall and many municipalities require an engineer or architect only if a residence is more than three stories high.

The process of consulting with an engineer or architect adds an unnecessary expense to the construction or renovation of a home. House Bill 377 amends Alaska statute to reflect the standard already present in the adopted codes across the state. HB 377 will allow contractors and homebuilders to build or expand a residence if it is not more than three stories high.



**ALASKA STATE LEGISLATURE**  
**Representative Kevin Meyer**

Sponsor: Representative Meyer  
Current Version: HB 377 24-LS1471\F  
Contact: Mike Pawlowski 465-2812  
Date: March 2, 2006

**Committee Substitute Comparison Sheet for House Bill 377**

**Short Title:**

"EXEMPTION: RES. BLDG. DRAWINGS & SPECS."

**Summary:**

- HB 377 adds an exemption to the requirement to have designs approved by an architect or engineer for residential buildings intended for not more than four families to three stories from the current two stories.

**Changes in blank CSHB 377:**

The exemption added in HB 377 is changed to a residence of not more than **two** families from not more than **four** families. Where HB 377 allowed a fourplex, CSHB 377 will instead allow a three story duplex to be built without the approval of an architect or engineer.

24-LS1471\F.1  
Bannister  
4/19/06

*Rep. Kerttula*

AMENDMENT

OFFERED IN THE HOUSE  
TO: CSHB 377(L&C)

BY REPRESENTATIVE KERTTULA

- 1 Page 2, line 22, following "building":
- 2       Insert ", if the building complies with any applicable building or residential code
- 3 adopted by a municipality where the building is located"



February 15, 2006

Representative Kevin Meyer  
 State Capitol, Room 515  
 Juneau, AK 99801-1182  
 FAX 907-465-3476

Dear Rep. Meyer:

Regarding legislation (HB 377) for stories above grade the Anchorage Home Builders Association fully endorses and supports this measure.

This is merely a housekeeping measure to align the state statute, the International Building Code and the International Residential Code. Currently the two are inconsistent. The state statute is two-stories and International Codes are 3-stories.

Sincerely,

Ray Hickel  
 President  
 Anchorage Home Builders Assn.

Larry Partusoh  
 Treasurer  
 Anchorage Home Builders Assn.

Harley Sudsbury  
 Past President  
 Anchorage Home Builders Assn.

Eric Schach  
 Vice President  
 Anchorage Home Builders Assn.

Sue Wolfe  
 Secretary  
 Anchorage Home Builders Assn.

**“Building Better Places to Live, Work and Play”**

**ANCHORAGE HOME BUILDERS ASSOCIATION, INC.**

8301 Schoon Street, Suite 200 • Anchorage, AK 99518 • (907) 522-3605 • Fax (907) 522-3757



**HB**

**382**

THE  
FOLLOWING  
DOCUMENT(S)  
ARE  
POOR  
ORIGINAL  
COPIES

# SENATE COMMITTEE REPORT

3/1/06

FURTHER: Finance

DATE TURNED  
IN TO OFFICE: \_\_\_\_\_

Finance and Commerce Committee considered HOUSE BILL NO. 382

## HB 382 RECORKING WINE SERVED WITH A MEAL

Act relating to recorking, sealing, or packaging of wine served with a meal and removal of recorked, sealed, or packaged wine from licensed premises."

Committee recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

**CS Senate Bill:**

- Same Title
- New Title

**SCS House Bill:**

- Same Title
- Technical Title Change
- New Title w/ SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	DO NOT PASS	No REC	AMEND
<i>Ben Stuenkel</i>			<input checked="" type="checkbox"/>	
<i>Ralph Keckius</i>			<input checked="" type="checkbox"/>	
CHAIR: <i>A. Bunde</i>	<input checked="" type="checkbox"/>			

# FISCAL NOTE

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

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB382-DPS-ABC-2-03-06  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Public Safety  
 Title: "An Act relating to recorking, sealing, or packaging of wine served with a meal..." RDU: Alcoholic Beverage Control Board  
 Sponsor: Representative Ramras Component: ABC Board  
 Requester: House Special Committee on Economic Development, Trade and Tourism, Labor 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>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY2006) cost: 0.0

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

**POSITION**

Full-time						
Part-time						
Temporary						

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

This legislation will have no fiscal impact on the Department of Public Safety.

Prepared by: Director Douglas B. Griffin Phone 907-269-0351  
 Division: Alcoholic Beverage Control Board Date/Time 2/6/06 10:56 AM  
 Approved by: Commissioner William Tandeske Date 2/6/2006  
 Agency: Department of Public Safety



## State Regulations on Re-corking Wine from Restaurants

Compiled by the National Restaurant Association from state liquor authority, state restaurant association, and other sources. All information is believed to be accurate as of June 2005 and is provided with the understanding that the National Restaurant Association is not engaged in rendering legal or professional services. No warranty of accuracy is given. Please verify policies and appropriate procedures with your state and local alcohol beverage control department as other regulations may apply.

State	Rules on taking wine home from restaurants
<b>Arizona</b>	Patrons may re-cork and removed a partially consumed bottle of wine as long as it was purchased with a meal and the cork is replaced flush with the bottle.
<b>Arkansas</b>	Arkansas ABC Reg. 1.79(27) does provide that those establishments which hold an on premise permit that would allow the service of wine may allow a consumer who purchases an unsealed package of wine in conjunction with a food service and consumes a portion of the wine on the premises with the meal, to replace the cork and remove the partially filled package from the premise. Contact enforcement agency for compliance details.
<b>California</b>	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for compliance details.
<b>Colorado</b>	Patrons may take one 1 partially consumed bottle of wine up to 750 ml purchased from an establishment with a hotel/restaurant liquor license. Restaurants are not required to do so. Those restaurants who do extend this option to customers is urged to reseal and package the wine to protect against any open container violation. <i>(enacted 2005)</i>
<b>Connecticut</b>	Patrons are allowed to take wine home when purchased with a meal. Regulations pertaining to transportation of unsealed container apply.
<b>Delaware</b>	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for additional compliance details.
<b>Florida</b>	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for additional compliance details. <i>(enacted 2005)</i>
<b>Georgia</b>	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for additional compliance details.
<b>Hawaii</b>	Legislation enacted in 2002 allows county liquor commissions to permit many licensees (incl. restaurants) to allow patrons to remove re-corked/re-sealed wine from premises. Contact enforcement agency for compliance details.
<b>Idaho</b>	Patrons are allowed to take wine home when purchased with a meal. Regulations pertaining to transportation of unsealed container apply.
<b>Indiana</b>	Patrons are allowed re-cork and take home wine purchased with a meal. The cautionary statement is to avoid any violation of the open container laws in the area that the wine will then be transported in. Local law enforcement can provide that information.
<b>Iowa</b>	Patrons are allowed to take wine home when purchased with a meal if the restaurant or bar has the appropriate licensing in place.

<b>Louisiana</b>	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for compliance details.
<b>Maine</b>	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for compliance details.
<b>Michigan</b>	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for compliance details. <i>(enacted 2005)</i>
<b>Minnesota</b>	A restaurant with an on-sale or wine license may permit a person purchasing a full bottle of wine in conjunction with the purchase of a meal, to remove the bottle when leaving the license premises provided that the bottle has been opened and the contents partially consumed.
<b>Montana</b>	Re-corking is permitted in businesses with all-beverage licenses or beer/wine licenses. A restaurant beer/wine license may <u>not</u> sell alcohol to go. Contact enforcement agency for compliance details.
<b>Nevada</b>	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for compliance details.
<b>New Hampshire</b>	Unconsumed wine purchased with a full meal may be taken from premises, provided patron is not intoxicated, bottle is properly sealed/bagged, and transported in vehicle area inaccessible to the driver.
<b>New Jersey</b>	Patrons are allowed to remove partially consumed wine from the premise as long as it is re-corked and placed in the trunk of the car. Not having direct access to the wine would remove the chance of receiving an open container citation.
<b>New York</b>	State law does allow patrons to take home <u>one</u> bottle of wine purchased with full meal. Please contact enforcement agency for compliance details.
<b>North Carolina</b>	If the establishment has an <u>off-premises</u> permit, then they customer can take an opened bottle of wine home by corking it. If the establishment does <u>not</u> have an off-premises license, the customer cannot. Re-corked wine must be transported in a vehicle compartment inaccessible to the driver.
<b>Oklahoma</b>	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for compliance details.
<b>Oregon</b>	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for compliance details.
<b>Pennsylvania</b>	All hotel (H) and restaurant (R) licensees may now allow patrons who have purchased a bottle of wine in conjunction with a meal, to take the unconsumed portion of the bottle with them when they leave. The bottle <u>must be resealed</u> before leaving the premises. A "meal" is defined as food prepared on the premises sufficient to constitute breakfast, lunch, or dinner; a "meal" does not include snacks such as pretzels, popcorn, chips, or similar items. This does not apply to retail dispenser (beer only or E), club, (C) or catering club (CC) licenses.
<b>South Carolina</b>	Nothing in the S.C. law prevents a patron from removing the open container from the restaurant. It is also legal to have the open container in a car as long as it is in the trunk or luggage compartment. Contact enforcement agency for compliance details.
<b>Tennessee</b>	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for compliance details.

<b>Texas</b>	Patrons who order wine with food and have a portion of the open container remaining may remove the open container of wine from the premises. Contact enforcement agency for compliance details.
<b>Utah</b>	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for compliance details.
<b>Vermont</b>	Vermont allows restaurants the discretion of allowing patrons to take home opened, bagged bottles of wine. **only in accordance with T 7 VSA § 222(1) Contact enforcement agency for compliance details.
<b>Virginia</b>	Patrons are allowed to take wine home when purchased with a meal. While it is not required to be in the trunk it is recommended that the bottle is inaccessible to the driver and passengers.
<b>Washington</b>	Washington law permits the unused portion of wine to be re-corked, packaged and carried out by the guest. Contact enforcement agency for compliance details.
<b>Wyoming</b>	Patrons are allowed to take wine home when purchased with a meal. Contact enforcement agency for compliance details. <i>(enacted 2005)</i>

\*\* All states not mentioned do not allow the re-corking and removal of partially consumed wine that was purchased with a meal.



## 2005 02 18: Michigan Considers a Wine Re-corking Bill

by Joseph McConnell

There's an old piece of internet humor that contrasts the Martha Stewart personality type with the attitudes and reactions of "the real woman." In one of its entries, it has the Martha-type saying that freezing in ice cube trays is a wonderful way of preserving leftover wine. The real woman's reaction is, "Leftover wine?"

We react in somewhat the same way to a bill introduced recently in the Michigan Senate by Sen. Jud Gilbert, which would permit restaurants and restaurant patrons to "re-cork" and take home wine left over at the end of a meal. Not a problem we often have. But although CII management will probably seldom take advantage of this capability, we still support it, for several reasons.

First, we applaud anything that encourages diners to order and restaurants to offer higher quality wines. The theory is, if you know that you'll be able to take home (and perhaps freeze in ice cube trays) the remains of that Chateaufort or Howell Mountain, you're more likely to order it instead of the Bonny Doon or even the Diet Slurpee. This is of particular interest when you consider people who often dine out alone; without a recorking law, dinner for one means a choice between the by-the-glass offerings, getting sloshed, or leaving good wine to the tender mercies of the kitchen staff.

And it's also argued that the bill will have some impact on drunken driving -- you won't feel economically pressured to finish your bottle, and therefore will drive more sensibly and safely on the way home. We admit that this is not the most convincing argument -- no statistics are collected here or anywhere else to show *what* an intoxicated driver was drinking, and consequently there's no basis to say that people pushing themselves to drain the last drop from a bottle of 1995 Brunello are subsequently laying waste the countryside. But if it makes the values voters happy, we're willing to play along, since the other benefits for the industry and the consumers are real enough.

The mechanics of it are not specified in the current bill's language -- presumably it would be necessary to do more than just pounding in the cork again. There's likely to be some kind of official re-seal process or something similar, letting Officer Friendly know that you're a fine upstanding oenophile who simply practices moderation, and not some Ripple-swilling Beatnik, cruising for babes with an open bottle of alcohol in your car.

In fact, if it becomes law, it might not be a bad idea for restaurants to provide a hang tag of some kind, citing the actual bill. And of course, there might be some incremental revenue to be made by selling preservation gear along with the re-corked bottle. A basic VacuVin kit, perhaps with the restaurant's label, might be a nice thing to stock and sell as an add-on.

Anyway, if you're a Michigan voter and you'd like to see the state follow the 30 other states that have similar laws, drop your Senator a line and encourage him or her to support Senate Bill 0199 2005.

## Restaurateurs toast wine 'doggie-bagging' laws

By Leeann Cannon

When it comes to promoting alcoholic beverage sales, restaurateurs sometimes are forced to choose between making a profit and making sure their customers are acting responsibly.

With an increasing number of states passing "recorking" bills on partially consumed bottles of wine, many restaurateurs around the country are singing the praises of the law that they see as a blessing to their businesses. There are approximately 30 states at present, including Colorado, Connecticut, Louisiana, Michigan, New York and Texas, which allow restaurants to reseal wine for customers to take home.

While the National Restaurant Association has "not paid a great deal of attention" to the so-called wine doggie-bagging measures, according to NRA spokesman Brad Dayspring, several state-level groups have shown a devoted interest.

Andy Deloney, director of public affairs for the Michigan Restaurant Association, said the MRA believes that recorking wine will encourage sales of bottles of wine at restaurants, adding, "That's something our members are interested in." The MRA represents more than 4,500 foodservice establishments.

In May Michigan became the latest state to pass the recorking ordinance. Dubbed the "Merlot-to-go" bill by the MRA, the bill passed through the state's Senate and House on a unanimous vote.

"We really believe the law is going to have a positive impact on drunk driving," Deloney said. "Some people go into a restaurant and can't finish a whole bottle. But if they spend \$50 on it, they're going to want to get their money's worth. This is where we've created a problem. Now, rather than risking impairing oneself, customers can take the bottle home."

Although the passage of the Merlot-to-go bill was unanimous, the Michigan Legislature employed a nonpartisan Senate staff called the Senate Fiscal Agency to analyze the proposed recorking law before the final decision was made.

The bill analysis committee noted that any recorking of partially consumed bottles of wine would have to comply with Michigan's Vehicle Code, which prohibits drivers and passengers from transporting open containers of alcohol unless they're in the trunk or a separate compartment. Open container laws proved to be a concern for many states when they were considering whether or not to pass similar recorking measures.

According to Michigan legislative analyst Suzanne Lowe: "Michigan has an open container law on the books for a reason: to discourage drinking and driving. ... Reportedly 41 percent of fatal car accidents involve alcohol. The bill might contribute to this problem by creating an opportunity for people to transport opened bottles of wine."

In response to Lowe's concerns, Michigan legislature made sure the bill required that the top of the cork was even with the lip of the bottle when it was resealed, therefore making a corkscrew necessary to reopen the bottle.

In support of the bill, Lowe said that "diners who ordered a bottle instead of a glass would have a selection that was both wider and of higher quality, since most restaurants offer only limited choices by the glass, and those tend not to be the finest wines."

Many restaurateurs agree with Lowe and are counting on the bill to increase not only bottle sales in

general, but also sales of more expensive wines.

Chuck Hunt, executive vice president of the New York State Restaurant Association, said that without a doubt the recorking laws would help promote more expensive purchases of wine. "If you know you're not going to finish a bottle, you're not going to order it," Hunt added. "Now that customers can keep whatever they don't drink, they have nothing stopping them from ordering a \$40 bottle."

The New York State Legislature, which passed a recorking bill in September 2004, requires that establishments put the resealed wine bottle in a tamper-proof bag to ensure that the open container law is obeyed, according to Hunt.

"One of the big problems that arose when the law was first passed was that no one knew where to get a suitable bag," he said. "We actually got our hands on one here at the New York State Restaurant Association and sent it on to the state liquor authority. Once we got it approved, I ordered about 10,000 of them for our members."

The NYSRA boasts the membership of approximately 7,000 restaurants.

Hunt also pointed out that with the tamper-proof bags, liquor liability for restaurants is no longer a concern. "Once a restaurant seals the bag, they are not responsible," he said. "As long as the standards of proper alcohol service are met, there is no issue [with liquor liability]."

Cindy Wiending, executive vice president of the Colorado Restaurant Association, said Colorado in May 2004 passed its "cork-and-carry" law pertaining only to restaurants with a hotel/restaurant liquor license. In April of this year, the state expanded the bill to other types of liquor licenses including brewpubs.

"We lobbied to pass the cork-and-carry law in conjunction with the state's lowering of its blood alcohol concentration standard for defining drunkenness to 0.08 percent from 0.10 percent," Wiending said. "Our major concern with the lower BAC was that customers — especially couples — wouldn't want to order a whole bottle of wine out of fear that they might not be able to drive home safely. The recorking law mitigated some of that concern."

In addition, the CRA offers recommendations to restaurants and consumers to ensure that taking home resealed bottles of wine doesn't conflict with the Colorado statewide open container law that was passed earlier this year. The open container law does provide that recorked bottles of wine are acceptable in vehicles as long as the bottles are in the trunk or in a sealed compartment, according to Wiending.

"The CRA suggests that restaurateurs not only recork the partially consumed bottles of wine so that the cork is even with the lip of the bottle but also apply tap to the seal and place the bottle inside a bag or box," Wiending added. "The Colorado liquor association said that by following our recommendations, even if the driver of a vehicle didn't put the wrapped bottle in the trunk, he or she would still have a strong defense against the open container law."

According to a published report, Colorado police thus far have not reported a great increase of open-container arrests.

Act No. 21  
Public Acts of 2005  
Approved by the Governor  
May 19, 2005  
Filed with the Secretary of State  
May 19, 2005  
EFFECTIVE DATE: May 19, 2005

**STATE OF MICHIGAN  
93RD LEGISLATURE  
REGULAR SESSION OF 2005**

Introduced by Senators Gilbert, Hammerstrom, Sanborn, McManus, Jellnek, Goschka, Bishop, George, Barcia and Switalski

**ENROLLED SENATE BILL No. 199**

AN ACT to amend 1998 PA 58, entitled "An act to create a commission for the control of the alcoholic beverage traffic within this state, and to prescribe its powers, duties, and limitations; to provide for powers and duties for certain state departments and agencies; to impose certain taxes for certain purposes; to provide for the control of the alcoholic liquor traffic within this state and to provide for the power to establish state liquor stores; to provide for the care and treatment of alcoholics; to provide for the incorporation of farmer cooperative wineries and the granting of certain rights and privileges to those cooperatives; to provide for the licensing and taxation of activities regulated under this act and the disposition of the money received under this act; to prescribe liability for retail licensees under certain circumstances and to require security for that liability; to provide procedures, defenses, and remedies regarding violations of this act; to provide for the enforcement and to prescribe penalties for violations of this act; to provide for allocation of certain funds for certain purposes; to provide for the confiscation and disposition of property seized under this act; to provide referenda under certain circumstances, and to repeal acts and parts of acts," by amending section 1021 (MCL 436.2021), as amended by 2002 PA 725.

*The People of the State of Michigan enact:*

Sec. 1021. (1) The commission shall not require a licensee to sell or serve food to a purchaser of alcoholic liquor. The commission shall not require a class A hotel or class B hotel to provide food services to registered guests or to the public.

(2) Except as otherwise provided in subsection (3), a purchaser shall not remove alcoholic liquor sold by a vendor for consumption on the premises from those premises.

(3) A vendor licensed to sell wine on the premises may allow an individual who has purchased a meal and who has purchased and partially consumed a bottle of wine with the meal, to remove the partially consumed bottle from the premises upon departure. This subsection does not allow the removal of any additional unopened bottles of wine unless the vendor is licensed as a specially designated merchant. The licensee or the licensee's clerk, agent, or employee shall reinsert a cork so that the top of the cork is level with the lip of the bottle. The transportation or possession of the partially consumed bottle of wine shall be in compliance with section 624a of the Michigan vehicle code, 1949 PA 300, MCL 257.624a.

(4) This act and rules promulgated under this act do not prevent a class A or B hotel designed to attract and accommodate tourists and visitors in a resort area from allowing its invitees or guests to possess or consume, or both, on or about its premises, alcoholic liquor purchased by the invitee or guest from an off-premises retailer, and does not prevent a guest or invitee from entering and exiting the licensed premises with alcoholic liquor purchased from an off-premises retailer.

This act is ordered to take immediate effect.

*Carol Mory Viventi*

Secretary of the Senate

*Jay E. Randall*

Clerk of the House of Representatives

Approved \_\_\_\_\_

\_\_\_\_\_  
Governor

wine making supplies, beer making supplies, winemaking supplies, homebrewing, home wine making supply, home brewing supply, wine making, beer making



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## Wine Corks, Wine Corkers

corks, wine corks, bottle corks, wine making kits, wine making supply, home wine making supplies, winemaking supplies, wine making supplies...



Item # 17421

**Champagne Floor Corker by Ferrari**

Corks Champagne bottles and standard wine bottles. Uses our 1 champagne corks or any straight wine cork. Very good quality all frame and legs. Corks all standard size wine bottles including 37 1.5 ltr. and 750ml champagne bottles. Caps beer bottles too with adaptor for crown caps #17530 sold below.

\$93.95

Quantity

1



Item # 17530

**Adaptor for Crown Caps - Use with Corkers Listed**

For use with our #4040 La Dio Padre or our #17421 Champagne cap your beer bottles with any metal crown cap. Makes your win versatile and capping could not be easier.

\$9.95

Quantity

1

Item # 4036

**Italian Twin Lever Corker**

Deluxe, adjustable push rod for regulating depth of cork insertion favorite corker.

\$19.95

Quantity

1

Carboys  
Chemicals - Wine  
Clarifiers - Wine  
Corks  
Corkers  
Crushers - Grapes  
Destemmers - Grapes  
Demi-Johns  
Fermentors  
Filters and Pads  
Foils - Champagne



Fruit Flavoring  
Labels and Paper  
Presses - Grapes  
Shrink Caps  
Spigots - Wood  
Sterilizing - Wine  
V-Vessel System  
Wine Storage Racks  
Wine Accesories  
Wine Glasses  
Yeast - Dry - Wine  
Yeast - Liquid  
 Coming Soon:  
 • Stainless Tanks



**Item # 4037**  
**Easy Twin Lever Corker**

Nylon body with spring that helps secure bottle from sliding while in duty then our Italian twin lever corkscrew.

\$24.95

Quantity

***Beer Making Supplies***  
**BYO Brew Your Own Magazine**  
Beer Equipment Kits  
Beer Inredient Kits:  
 • Brewers Best Kits  
 • Brew House Kits  
 • Malt Extract Kits  
 • Barons Beer Kits



**Item # 4039**  
**Portuguese Twin Lever Corker**  
 Good quality corkscrew.

\$13.95

Quantity

Additives - Beer  
Books - Beer  
Bottles - Beer  
Brewers Garder Herbs  
Brewing / Boiling Pots  
Candi & Sugars  
Caps & Cappers  
Carboys  
Chemicals - Beer  
Cleaners - Beer  
Fermentors  
Filters and Pads  
Flakes & Adjuncts  
Fruit Flavors  
Oregon Fruit  
Purees



**Item # 4040**  
**Italian Floor Corker - 'La Dio Padre' by Ferrari**

'La Dio Padre' of floor corkscrews. Brass crimping jaws. If you are lo this is it! Handle breaks down into two sections for easier storage. standard size wine bottles including 375ml, 750ml and 1.5 ltr. C: too with the optional adaptor for crown caps #17530 sold above.

\$89.95

Quantity

**Item # 4042**

- [Harvest Fruit](#)
- [Bases](#)
- [Grains - Brewing](#)
- [Herbs - Dried](#)
- [Hops](#)
- [Kegging](#)
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- [Sugars and](#)
- [Adjuncts](#)
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- [Yeast - Liquid](#)



**Portuguese Floor Corker**

Excellent, heavy duty floor corkscrew with high quality crimping jaws and 1.5ltr bottles. Corks 375ml bottles with small block of wood placed on bottle holder. Makes a great gift!

\$49.95

Quantity

- Common**
- Equipment**
- [Air Locks](#)
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- [V-Vessel System](#)



Our No. 7 first quality corks are made of natural cork, prewashed natural products, greatly improving their appearance. The corks have decorative grape leaf pattern and are chamfered. Recommended stopper for table wine only, non-wine liquid or bottle closures. Caution: hand so they are tight but NOT airtight. NOT recommended for lay any liquid but upright storage is ok. Great when using wine bottle with red hot, M&M's or when sending wedding or party invitation

**First Quality Corks / #7 x 1-3/4**

Selected Item #4050

(A) First Quality Corks / Bag of 30 / No. 7 x 1 3/4

\$3.49

Quantity



1-3/4 inch long corks provide up to 3-5 years of protection for aging. quality corks are made of natural cork, prewashed and filled with greatly improving their appearance. The corks are printed with a leaf pattern and are chamfered. Best choice when using a twin le any hand corkscrew. Floor corkscrews too.

**First Quality Corks / # 8 x 1-3/4 Corks**

Selected Item #4060

(A) First Quality Corks / Bag of 30 / No. 8 x 1 3/4

\$3.95

Quantity



1-1/2 inch long corks provide up to 2 years of protection for aging. corks are made of natural cork, prewashed and filled with natural improving their appearance. The corks are printed with a decorative pattern and are chamfered. Recommended for use with floor cork

**First Quality Corks / # 9 x 1-1/2 Corks**

Selected Item #4062

(A) First Quality Corks / Bag of 30 / No. 9 x 1 1/2

\$3.95

Quantity

- Miscellaneous**
- [Liquor Making](#)
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1-3/4 inch long corks provide up to 3-5 years of protection for aging. Quality corks are made of natural cork, prewashed and filled with a leaf pattern and are chamfered. Recommended for use with floor corks.

**First Quality Corks / # 9 x 1-3/4 Corks**

Selected Item #4064

(A) First Quality Corks / Bag of 30 / No. 9 x 1 3/4

\$4.25

Quantity

1



Quality Wine and Ale Supply and Nomacorcs® have joined forces to bring you the #1 synthetic cork on the market! "What's so special about these? The answer is the manufacturing process. Other types of synthetic corks are injection molded which is a batch process that produces corks with inconsistent density and cell structure size resulting in inconsistent protection. Nomacorcs® are made by a unique, patented, co-extrusion process. The interior and exterior sections of the cork are bonded together by heat and pressure. This continuous process that provides a very consistent quality, and the result is exactly the same. Nomacorcs® is simply a better closure because the closed cell structure creates a better barrier from oxygen and protects the flavor of your wine. They have made for us a 9 x 1 1/2 cork, printed with a leaf logo. We've tested the corks and they work best with floor corks and with hand corks too. These corks seal instantly and the bottle can be stored directly after corking. You can also use any common corker for your wine bottles. This is modern technology that preserves your wine. We are pleased to be able to offer it to you. Recommended for use with floor corks and also for twin lever corks. These corks will provide at least 3 years of protection during aging.

**Nomacorcs® Synthetic Corks / # 9 x 1-1/2**

Selected Item #4086

(A) Nomacorcs® Synthetic Corks / Bag of 30 / No 9 x 1-1/2

\$6.75

Quantity

1



1-3/4 inch long corks provide up to 5 years of protection for aging. Quality corks are agglomerated and non-chamfered. You will find minimal defects. Use with floor corks only.

**Premium Twin Disc Wine Corks / #9 x 1-3/4**

Selected Item #4102

(A) Premium Corks / Bag of 30 / No 9 x 1 3/4

\$5.25

Quantity

1

APM Premium Quality Wine Corks - 1000 Count Bags Only



Selected Item #4119

(A) 9 x 1-1/2 Agglomerated Superior Wine Corks - Per 1000

\$49.95

Quantity

1

This is a ridiculously unbelievable sale, a real super Superbuy! A cork supplier has closed their doors and auctioned off their leftover corks. It just happened to be at the right place at the right time and score. There is no compromise on quality here as all the corks are wine quality. You want to act fast because quantities are limited and when the corks are gone for good. Choose your style and length. 1000 count bags.

**Some types of corks:**

**Agglomerate Corks: (#4119)**

This type of cork closure is produced from cork granules that are made from cork oak resins using heat treatment while under pressure. They are formed by a single molding or by extrusion. Agglomerate cork has high resistance and a good seal. A mixture of clean cork granules that are pressed together to form wine corks are used to produce agglomerate stoppers. Agglomerate wine corks are the ideal economically produced stoppers to be used which will be consumed within two or three years.

**Twin Top (Disc) or One by One Corks: (#4117 & #4111)**

This is a new generation of cork stoppers, economically priced as well as high quality natural straight corks. It is comprised of a mixture of agglomerate cork, and a disc of natural cork at each end.

(Below is for customer information only for other types of corks)

**Natural Straight Wine Corks:**

This is a cylindrical stopper which has been punched directly from 100% natural cork. Once the stopper has been punched it is sorted into various qualities by computerized sorting. It is washed and sterilized. For added assurance, a final quality sort is done manually and random samplings are sent for laboratory testing for microorganisms, moisture control, etc. There are different grades of treatments available depending on the type of bottle, bottling method, etc.

**Ice Wine Natural Corks:**

These are the highest quality corks specifically sized and treated for use in neck ice wine bottles and to withstand high sugar content.

**Colmated or Pore-Filled Corks:**

This is a natural cork which goes through an extra operation of "colmation" inherent to all corks. This treatment improves the cork's mechanical strength. Usually the filling of the pores is performed on lower grades since they are of a quality high enough not to require pore filling. The "filling" is done using a mixture of cork particles of a granulometry and natural resin approved by the FDA. Colmated corks are a very good functional stopper.

**Item # 4208**

**Tapered Wine Corks / Bag of 25 / No. 8**

Tapered cork with 7/8 inch top, 11/16 inch bottom.



Quantity

## Restaurants Applaud State "Recorking" Laws

With recent Supreme Court decisions helping to improve sales in the wine industry, it may not be long before lawmakers tackle another issue important to both wine producers and restaurateurs: wine recorking in restaurants.

A Michigan law passed last month now allows restaurant patrons to take home unfinished bottles of wine they have purchased, provided that the wine has been recorked. Michigan joins approximately 30 other states, including California, New York, Texas and Washington, that also allow opened bottles of wine to be taken home from restaurants. The Michigan Restaurant Association, which lobbied heavily for the measure, said that recorking laws would be a boost for the restaurant industry's wine sales, since customers would be inclined to purchase entire bottles of wine instead of individual glasses.

Some lawmakers, however, are worried that recorking laws might interfere with states' drinking and driving policies, especially with open-container policies. Even the states that allow wine recorking have strict policies on transporting open containers of alcohol. Most often, wine must be completely recorked, with the cork's edge touching the lip of the bottle, or the wine bottle must be placed in a tamper-proof container. In some states, the wine must be placed in an area of the car inaccessible to the driver, such as the trunk.

Despite these concerns, many restaurants have applauded recorking measures, saying that these laws have increased sales of wine bottles—especially for their higher-priced wines. Restaurant owners say customers are more inclined to buy expensive wines if they know they can take them home.

Even so, recorking laws are not meant to supersede responsibility. Restaurant owners, who still have liability in preventing patrons from abusing alcohol, have the final say in whether opened wine bottles may be taken home.



**Representative Jay Ramras**  
**Co-Chair, House Resources**  
**Co-Chair, Economic Develop.**  
**Tourism & Trade**  
**House State Affairs**  
**Joint Armed Services**  
119 N. Cushman St. Suite 207  
Fairbanks, Alaska 99701  
Phone: (907) 452-1088  
Fax: (907) 452-1146

## Alaska State Legislature



While in Session  
**State Capitol, Room 104**  
**Juneau, Alaska 99801-1182**  
(907) 465-3004  
Fax: 465-2070  
Toll Free: (877) 465-3004

**House District 10**

### House of Representatives Sponsor Statement HB 382

House Bill 382 will allow the patrons of restaurants to enjoy a bottle of wine with their meals without the need to consume the entire bottle. Presently, if a customer purchases dinner and is unable to eat it all they can request a package to take the leftovers home. If it is a bottle of wine the only options are to finish it before leaving, or leave the unconsumed portion at the restaurant. Since the majority of customers chose the first option they may have had too much to safely drive.

What House Bill 382 does is allow the restaurant to recork the bottle in such a manner as to require the use of a corkscrew to reopen the bottle. In the case of non-corked bottles or at the discretion of the Alcohol Beverage Control Board the wine can be sealed.

House Bill 382 is an additional tool to curb DUI's by allowing the consumer to purchase and enjoy a bottle of wine with their dinner, and not overindulge simply because of economics.

###

Sec. 04.16.120. Removal or introduction of alcoholic beverages.

Statute text

(a) A person may not remove from licensed premises alcoholic beverages that have been sold or furnished for consumption only on the premises.

(b) Except as provided in this subsection, a person may not bring an alcoholic beverage into licensed premises for use or consumption by oneself or another person on the premises unless that person is a licensee, an agent, employee, or common carrier in the regular course of employment. With the permission of the licensee, a person may bring wine into premises licensed as a beverage dispensary or a restaurant or eating place for consumption by the person while eating food served at a table on the licensed premises. The beverage dispensary or restaurant or eating place may charge a corkage fee for serving wine supplied by a customer.

History

(§ 3 ch 131 SLA 1980; am § 15 ch 74 SLA 1999)

Mr. Pound --

I have reviewed HB 382, "An Act relating to recorking, sealing, or packaging of wine served with a meal and removal ...". Speaking only for myself and not on behalf of the ABC Board, I support this legislation. Similar provisions are found in many states. The consensus of states that allow the resealing for safe removal and transport of wine not consumed with a meal is that benefits outweigh potential problems. The main benefit of allowing the resealing of a partially consumed bottle of wine to take home is the prevention of over consumption with the meal for the sake of not wasting good (perhaps

expensive) wine. This just removes one more excuse for a person to drink excessively and endanger the public by driving. This concern over moderate alcohol consumption leading to a potential DUI arrest has been heightened in the public's mind and for hospitality business owners by the adoption of the .08 BAC standard.

The primary concern with this bill is violation of open container laws while transporting the resealed wine home. Representative Ramras has taken care in drafting the bill to minimize this potential problem. The bill sponsor has required replacement of the cork sufficient to require a tool to reopen the bottle. More and more premium wines are changing to screw-off caps and it is likely this trend will continue. This will require just a bit more work to develop common sense ways to make the resealed bottle tamper proof (taping the bottle cap or placing the bottle in a paper or plastic bag that can be sealed and adequately enclosed). The bill provides for the ABC Board to establish safe and simple ways to address this issue and I do not see this as a problem. Alaska has the advantage of learning what that worked well in other states and applying it here.

I hope these comments and observations are helpful to the committee. I am sorry that I could not be available to participate in the hearing by teleconference.

Doug Griffin, Director

Alaska Alcoholic Beverage Control Board

**HB**

**389**

# SENATE COMMITTEE REPORT

DATE: 4/12/06

FURTHER:

DATE TURNED  
IN TO OFFICE: \_\_\_\_\_

Labor and Commerce Committee considered HOUSE BILL NO. 389

## HB 389 REGULATION OF TOURIST ACCOMMODATIONS

"An Act relating to tourist accommodations permits and to penalties for failing to comply with permitting requirements; removing a requirement that persons operating tourist accommodations post certain laws and regulations on the premises; and providing for an effective date."

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

<b>CS Senate Bill:</b>	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
<b>SCS House Bill:</b>	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
<i>Betty Davis</i>	X			
<i>John Elder</i>	<del>X</del>			
<i>Robert Williams</i>	✓			
<i>Don Hill</i>	✓			
CHAIR: <i>Benedict</i>	✓			

# ALASKA STATE HOUSE OF REPRESENTATIVES

**Contact:**

Interim Address:

3340 Badger Road  
North Pole, AK 99705  
(907)-488-5725  
Fax# (907)-488-4271

**Session**

(907)-465-3719  
FAX# (907)-465-3258  
State Capitol  
Room 204

## REPRESENTATIVE JOHN COGHILL

*HB 389 - Tourist Accommodations*

### *SPONSOR STATEMENT*

I was contacted by the Department of Environmental Conservation after my office solicited information from state agencies about laws that should be repealed.

This legislation repeals the permitting requirement for tourist accommodations.

Tourist accommodations are heavily regulated as public accommodations and the remaining sections of AS 18.35 will provide DEC with the regulatory authority necessary to insure the health and safety of the public.

(24-LS1276 G)

# ALASKA STATE HOUSE OF REPRESENTATIVES

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(907)-488-5725  
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**Session**

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FAX# (907)-465-3258  
**State Capitol  
Room 204**

## REPRESENTATIVE JOHN COGHILL

### *HB 389 – Tourist Accommodations*

#### SECTIONAL

#### Section 1.

Presently DEC does not require permits for public accommodations. This bill will cleanup language deleting reference to AS 18.35.040, 050, 070, and AS 44.46.025(a) which are being repealed in Section 2.

#### Section 2.

##### Repeals:

AS 18.35.040 Permits –  
Permits are no longer required.

AS 18.35.050 Penalty for noncompliance with permit requirement.  
There is no permit; there is no noncompliance.

AS 18.35.070 Posting regulations.  
It is unnecessary to post the laws and regulations on the premises.

AS 44.64.030(a)(16) - AS 18.35.040 (Tourist Accommodations).  
This section needs to be repealed, because 18.35.040 is repealed.

#### Section 3:

This Act will take effect immediately under AS 01.10.070(c).

(24-LS1276-G)

# FISCAL NOTE

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

Fiscal Note Number: 1  
 Bill Version: HB 389  
 (H) Publish Date: 2/15/06

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Dept of Environmental Conservation  
 Title: Regulation of Tourist Accomodations RDU: Environmental Health  
 Component: Food Safety and Sanitation  
 Sponsor: Rep. Coghill  
 Requester: Economic Development, Trade, and Tourism Component No: 2343

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

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	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>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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**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 (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	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 legislation will have no fiscal impact on DEC.

Prepared by: Kristin Ryan, Director  
 Division: Environmental Health  
 Approved by: Kurt Fredriksson  
 Agency: Department of Environmental Conservation

Phone: (907) 269-7644  
 Date/Time: 2/6/06 4:53 PM  
 Date: 2/10/2006

**HB**

**392**

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SENATE COMMITTEE REPORT

06

FURTHER

DATE TURNED INTO OFFICE

Commerce Committee considered CS FOR HOUSE BILL NO. 392(L&D) am

HB 392 SOLID WASTE MANAGEMENT AUTHORITIES

authorizing the establishment of regional solid waste management authorities.

amends:

replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)

replaces previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)

attached amendment(s)

request Letter of Intent by \_\_\_\_\_ Committee

request further referral to \_\_\_\_\_ Committee

CS Senate Bill:

- Same Title
- New Title

SCS House Bill:

- Same Title
- Technical Title Change
- New Title w/ SCR # \_\_\_\_\_

FISCAL NOTE(S):

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

Department	Date	Fiscal	Indet.	Zero	FN#

] APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
<i>Betty Davis</i>	X			
<i>Ralph Flekins</i>	✓			
<i>Bar Stuenkel</i>	✓			
CHAIR: <i>ABrennan</i>	✓			

HB 392

# STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION

OFFICE OF THE COMMISSIONER

**FRANK H. MURKOWSKI, GOVERNOR**

410 Willoughby Ave., Ste 303  
Post Office Box 111800  
Juneau, AK 99811-1800  
PHONE: (907) 465-5066  
FAX: (907) 465-5070  
<http://www.dec.state.ak.us>

May 1, 2006

The Honorable Con Bunde  
Chairman, Senate Labor and Commerce Committee  
Alaska State Senate  
Alaska State Capitol, Room 506  
Juneau, Alaska 99801-1182

Dear Senator Bunde:

The Alaska Department of Environmental Conservation supports House Bill 392, "Solid Waste Management Authorities".

In some ways, Alaska's solid waste management situation is unique - a point illustrated by comparing us to the State of Washington. Washington has a population of over 6 million with all of its municipal solid waste going to 21 regional disposal facilities. Alaska, with its population of around 640 thousand, has over 200 different disposal facilities (some of which are out of state).

Compared to Washington, we have about one tenth of the population and ten times the number of solid waste disposal sites. The difference is that Washington, with its transportation infrastructure and ability to move solid waste, has large solid waste facilities that serve all municipalities within a region. Alaska tends to have one disposal facility per community.

From DEC's environmental and human health perspective, we support development of regional solid waste management systems that serve a number of communities over individual systems serving a single community. Larger solid waste facilities are able to take advantage of economies of scale and are generally better funded, better operated, and less apt to cause environmental or health problems than smaller facilities.

We encourage development of regional solid waste management systems where they make sense. By providing communities with the opportunity to band together to form regional solid waste authorities, we hope that HB 392 will foster development of new regional solid waste management systems in Alaska.

We are not experts on many of the Title 29 authorities, legal and financial matters in this bill. We do, however, support the intended effect of this bill to further development of regional solid waste management systems in Alaska.

We thank Representative Wilson for introducing this legislation, and we urge your support for HB 392.

Sincerely,

A handwritten signature in black ink that reads "Dan Easton". The signature is written in a cursive, slightly slanted style.

Dan Easton  
Deputy Commissioner

cc: Senator Ralph Seekins  
Senator Ben Stevens  
Senator Johnny Ellis  
Senator Bettye Davis

# FISCAL NOTE

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

Fiscal Note Number: 1  
 Bill Version: CSHB 392(CRA)  
 (H) Publish Date: 2/17/06

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Commerce  
 Title Solid Waste Management Authority RDU Cmm Assist & Ec Dev (405)  
 Component Community Advocacy  
 Sponsor Wilson  
 Requester Community & Regional Affairs Component No. 2703

**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>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (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 amends Title 29 to provide for the establishment of regional solid waste management authorities by one or more municipalities. It would not create a fiscal impact on the operations of the department.

Prepared by: Mil e Black, Director  
 Division: Community Advocacy  
 Approved by: William C. Noll, Commissioner  
 Agency: Commerce, Community, and Economic Development

Phone 907.269.4578  
 Date/Time 2/7/06 5:57 PM  
 Date 2/7/2006

# FISCAL NOTE

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

Fiscal Note Number: 2  
 Bill Version: CSHB 392(CRA)  
 (H) Publish Date: 2/17/06

Revision Date/Time: \_\_\_\_\_ Dept. Affected: Commerce  
 Title: Solid Waste Management Authority RDU: Regulatory Commission of Alaska (399)  
 Component: Regulatory Commission of Alaska  
 Sponsor: Wilson  
 Requester: Community & Regional Affairs Component No.: 2417

**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>						
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<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						
1141 RCA Receipts						
<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)

The RCA will have no financial impact from this legislation, anticipating that the regional solid waste management authority would be exempt from regulation as indicated in Sec. 3 of this legislation unless it directly competes with a utility subject to AS 42.05.

Typically, the RCA's jurisdiction is invoked by AS 42.05.990(4)(F), which defines a "public utility" to include any public corporation that owns, operates, manages, or controls any plant or system for furnishing collection and disposal service of garbage, refuse, trash or other waste to the public for compensation. Thus, the regional authority may be a public utility subject to AS 42.05, depending on the scope of the management of solid waste undertaken.

Prepared by: Kate Giard, Chairman Phone: 907.276.6222  
 Division: Regulatory Commission of Alaska Date/Time: 2/8/06 3:19 PM  
 Approved by: William C. Noll, Commissioner Date: 2/8/2006  
 Agency: Commerce, Community, and Economic Development

# FISCAL NOTE

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

Fiscal Note Number: 3  
 Bill Version: CSHE 392(CRA)  
 (H) Publish Date: 2/17/06

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Dept of Environmental Conservation  
 Title: Regional solid waste management authorities RDU: Environmental Health  
 Component: Solid Waste  
 Sponsor: Representative Peggy Wilson  
 Requester: House Community and Regional Affairs Component No.: 2344

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

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	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>						
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<b>CHANGE IN REVENUES ( )</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>
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**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 (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	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 legislation will have no fiscal impact on DEC.

Prepared by: Kristin Ryan, Director  
 Division: Environmental Health  
 Approved by: Kurt Fredriksson  
 Agency: Department of Environmental Conservation

Phone: (907) 269-7644  
 Date/Time: 2/6/06 4:48 PM  
 Date: 2/7/2006

# LEGAL SERVICES

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

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

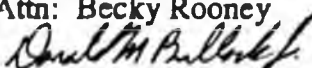
State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

March 15, 2006

**SUBJECT:** Sectional Analysis of CSHB 392(L&C)  
(Work Order No. 24-LS1227C)

**TO:** Representative Peggy Wilson  
Attn: Becky Rooney

**FROM:**   
Donald M. Bullock Jr.  
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

**Section 1.** Amends AS 29.35.070(a) by adding a reference to AS 42.05.711(p) that would be added by sec. 3 of the bill.

**Section 2.** Amends AS 29.35 by adding article 10, secs. 29.35.800 - 29.35.925, relating to regional solid waste management authorities.

**Sec. 29.35.800.** States the purpose of regional solid waste management authorities.

**Sec. 29.35.805.** Provides that a single municipality or two or more municipalities may create a regional solid waste management authority ("authority") by ordinance or ordinances. Allows a municipality to join an established authority. Provides that an authority is a body corporate and politic and an instrumentality of the municipality or municipalities that created it, but has a separate and independent legal existence from the municipality or municipalities. States that the creation of an authority is an exercise of a municipality's extraterritorial jurisdiction. Requires that the ordinance or ordinances creating the authority must specify the powers, boundaries, and limitations of the authority. Requires that voters in a municipality creating the authority, approve the authority. Limits the application of AS 29.35.800 - 29.35.925 to an authority created under this section.

Sectional Analysis

Sec. 29.35.810. Requires that an ordinance creating an authority provide for the manner for dissolving an authority. States that the assets of a dissolved authority be distributed to a participating municipality in proportion to a municipality's contribution, less any liability owed to the authority. Distribution may only occur after outstanding bond liability has been satisfied. Allows a municipality participating with one or more other municipalities to withdraw from the authority without dissolving the authority.

Sec. 29.35.815. Authorizes a municipality to transfer real and personal property or leases to the authority.

Sec. 29.35.820. Lists the powers an authority may exercise, provided the powers are included in the enabling ordinance.

Sec. 29.35.825. Provides that an authority created with appropriate powers may issue bonds and borrow money. States that the principal and interest are payable from the revenue received by the authority. Lists requirements for authorizing and selling bonds and planning for the payment of bond debt. Sets jurisdiction in the superior court for issues relating to an authority's obligations.

Sec. 29.35.830. States that an authority's bonds are eligible investments for entities listed.

Sec. 29.35.835. States that the pledge of revenue for the payment of debt is binding from the time the pledge is made and provides for a lien on revenue.

Sec. 29.35.840. States that the state and municipalities participating in an authority are not liable for the debts of an authority and that the debt is payable solely from the authority's revenue.

Sec. 29.35.845. Provides that the state and participating municipalities commit to not interfere with the ability of an authority to meet its debt obligation.

Sec. 29.35.850. Limits the satisfaction of the liability of an authority to the assets or revenue of the authority.

Sec. 29.35.855. Limits the liability of a board member or employee because of the execution or issuance of bonds.

Sec. 29.35.860. Requires an authority to obtain a fidelity bond for board members and executives responsible for accounts and finances.

Sec. 29.35.865. Prohibits an authority from levying any tax.

Representative Peggy Wilson

March 15, 2006

Page 3

Sec. 29.35.870. Exempts an authority and its bonds from state and municipal taxes. Provides that an authority and a participating municipality may negotiate for payments in lieu of taxes.

Sec. 29.35.875. Provides for the authority to be administered by a board that shall appoint a chief executive officer.

Sec. 29.35.880. Provides that a collective bargaining agreement for state or municipal employees transferred to the authority shall remain in effect for a fixed period of time and allows the employees to retain certain rights of participation in fringe benefit programs. Provides that AS 23.40.070 - 23.40.260 apply to the authority's employees unless all participating municipalities are exempt.

Sec. 29.35.885. Requires the board to adopt bylaws and regulations and lists subjects that must be included in the bylaws and regulations.

Sec. 29.35.890. States that the authority is subject to public records and open meeting laws.

Sec. 29.35.895. Requires the authority to distribute an annual report to the mayor and governing body of each municipality participating in the authority and lists subjects that may be included in the report.

Sec. 29.35.900. Requires an annual audit by an independent certified public accountant and requires the authority to make its records available to an auditor for a municipality participating in the authority.

Sec. 29.35.905. Provides the authority for a holder of bonds, notes, or coupons, or a trustee to enforce their rights and compel performance of the authority's duties.

Sec. 29.35.910. Provides that an authority, its board members, and its employees enjoy the same rights, privileges, and immunities as a municipality and municipal officers in judicial and regulatory proceedings.

Sec. 29.35.915. Provides that the statutes in the legislation prevail if in conflict with other statutes in AS 29.

Sec. 29.35.920. Defines terms used in provisions that would be enacted by sec. 2 of the bill.

Sec. 29.35.925. States the short title for the Act.

Representative Peggy Wilson

March 15, 2006

Page 4

**Section 3.** Amends AS 42.05.711 by adding a new subsection to exempt the authority from regulation by the Regulatory Commission of Alaska unless the authority directly competes with a regulated utility.

**Section 4.** Amends AS 44.85.410(3) by including a revenue bond issued by the authority within the definition of "municipal bond."

If I may be of further assistance, please advise.

DMB:med

06-215.med

# Fact Sheet for CSHB 392

**Short Title:** Solid Waste Management Authorities

**Benefits:** HB392 would provide a way for communities to come together to form a solid waste management authority to do what no single small community has been able to do. Working together they will be able to create economies of scale, reduce administrative costs and afford a state of the art waste processing facility. For Southeast Alaska, the authority will also help the regions economy by keeping the money here that is currently spent at the super landfills in the lower 48.

**Summary:** Allows a community or group of communities to create a public corporation to deal with waste management

1. Modeled after the State of Alaska Port Authority statutes,
2. Requires that each municipality's voters approve joining the authority.
3. The authority has an independent legal existence from the municipality or municipalities.
4. It may issue bonds, borrow money, and enter into contracts.
5. A board that will be responsible for creating by-laws and regulations will govern the authority. (Will have representation from all members of the authority)
6. It will allow a municipality to withdraw from an authority without dissolving the authority. The withdrawing municipality will remain liable for existing obligations to the authority or other participating municipalities.

**Background:** Over the last decade in Southeast Alaska landfills, waste-to-energy plants and incinerators have closed. The cheapest and quickest alternative for any one community has been to ship municipal solid waste (MSW) by barge and rail to super landfills in the continental U.S. Lack of available and suitable land near existing communities and high costs to develop a landfill have prevented any one community from taking on this task itself.

Recycling and municipal waste collection is expensive with southeast communities paying between \$77/ton and \$220/ton to ship recyclables to markets and MSW to landfills, while the cost per ton for disposal in Anchorage is only \$40/ton. Presently, communities in Southeast Alaska, excluding Juneau, are shipping 23,000 tons of municipal waste out of state each year. Other Southeast communities have landfills nearing capacity, while many small communities have improper or un-permitted dumps.

Communities cooperating as a single entity can produce a regional solution to deal with the MSW. The authority's regional facility could include a Materials Recovery Facility (recycling) on the front end and a state-of-the-art landfill. Other options may include thermal reduction (waste to energy), space for composting, and space for treating oily soils.

While the compelling reasons to develop this authority are focused around the Southeast Region this bill applies to any municipality or group of governing bodies in Alaska.

## Questions and Answers for HB 392 Regional Solid Waste Management Authority

**What is "A body corporate and politic"?** The term describes the authority as an instrument of the municipality or municipalities creating it. Other entities that use this term are:

1. Alaska Aerospace Development Corporation
2. Regional Native Housing Authorities
3. Port Authorities
4. Resource Development Authorities
5. Joint Action Agencies (energy)
6. Alaska Municipal Bond Bank Authority
7. AIDFA (Alaska Industrial and Development Export Authority)

### **Will the Solid Waste Management Authority be regulated by RCA?**

The Authority will be regulated if there is competition. (See page 12 line 15-19 HB 392)

A utility that doesn't meet the \$300,000 limit can request to be regulated by the RCA. This would constitute a certified competitor and the Authority's rates and certification exemption would be void. AS 42.05.711 section g. and i.

### **Is there a Moral Obligation by the state or municipalities to re-pay outstanding debt (bonds) if an authority cannot?**

No there is no obligation of the state or the municipality. (See page 8 line 3-6 of HB 392)

### **Will the municipalities or state credit rating be impacted if the authority issues a bond?**

The credit of the state or municipality will not be impacted. (See page 7 line 6-18 of HB 392)

### **Questions about ability of an authority to re-pay a bond –**

1. Before issuing bonds the authority shall demonstrate the ability to repay (page 5 line 31 and page 6 line 2-7 of HB 392)
2. Caveat Emptor - The bond investor must do his research. If there is a question of the authorities ability to re-pay the bond the interest will be high and there may not be investors for the bond.

# STATE OF ALASKA

DEPARTMENT OF LAW  
OFFICE OF THE ATTORNEY GENERAL

Frank H. Murkowski, Governor

P.O. BOX 110300  
JUNEAU, ALASKA 99811-0300  
PHONE: (907)465-3600  
FAX: (907)465-2075

January 9, 2006

Representative Peggy Wilson  
Alaska State Legislature  
State Capitol, Room 108  
Juneau, Alaska 99801

Re: Comments on Regional Solid Waste  
Authority Legislation

Dear Representative Wilson:

This letter provides additional comments from the Department of Law regarding the proposed regional solid waste authority legislation, based on a joint review by the Departments of Law and Environmental Conservation. We appreciate the efforts that you and Alaska communities and organizations have undertaken to find solutions to challenging waste disposal issues.

The draft bill is crafted similar to other existing statutes, such as Alaska's port authority act. (AS 29.35.600, *et. seq.*) Please see our earlier comments. This comment letter focuses on the environmental regulation of facilities that would be constructed, operated or closed by Authorities established under the bill.

Based on the joint review between DEC and Law, we believe 46.03.100 (including its financial assurance requirements for municipal solid waste disposal facilities), as well as other applicable state and federal laws and regulations governing environmental matters for waste management and disposal facilities, would apply to an Authority's facility. It is our understanding that you and other supporters of the bill share this view, as well. If this is not the case, please advise me as soon as possible, as we would want to discuss this matter in greater detail and provide additional State input.

On a related point, the draft legislation states that the Authority may "regulate land use within the boundaries of the authority." See AS 29.35.820 (15)). This is very broad language, and very likely would lead to conflicts with

Representative Peggy Wilson  
Re: Regional Solid Waste Authority Legislation

January 9, 2006  
Page 2

other state laws or municipal ordinances that may involve land use regulation. Given this potential for conflicts, the legislature should consider whether it would be prudent to more explicitly define the scope of an Authority's power to regulate land use within the boundaries of the authority.

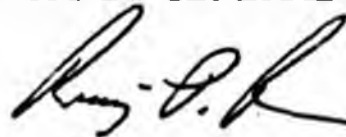
Further, proposed AS 29.35.870(a) states the following: "The real and personal property of an authority and its assets, income, and receipts are exempt from all taxes and special assessments of the state or a political subdivision of the state." The term "special assessment" is not defined in the legislation and could be interpreted quite broadly. The legislature should consider clarifying language that this term does not include fees charged by regulatory agencies.

We have one other observation regarding the draft legislation. It currently provides that a liability of the regional waste authority can only be satisfied from the assets or revenue of the authority. "A creditor or other person does not have a right of action against the state or a municipality participating in an authority because of a debt, obligation, or liability of an authority." AS 29.35.850. There is some question as to whether this limitation would protect an individual member of an Authority from potential liability in circumstances where there is a hazardous release to the environment from a facility. See AS 46.03.822. Thus, the legislature should make clear, perhaps through hearing testimony and the legislative history for the bill, whether it intends for this legislation to protect individual members of an authority from recovery actions for such environmental releases. In raising this issue, we have not analyzed how the limitation on liability provision would be treated under federal law.

We hope you find these and our earlier comments helpful. Please do not hesitate to contact me if you need any additional assistance on this important piece of legislation.

Sincerely,

DAVID W. MÁRQUEZ  
ATTORNEY GENERAL

By: 

Randall P. Ruaro  
Legislative Liaison to the Attorney General

# LEGAL SERVICES

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

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

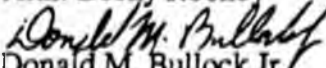
State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

February 20, 2006

**SUBJECT:** Comments by the Department of Law relating to HF 392  
(CSHB 392(CRA); Work Order No. 24-LS1227S)

**TO:** Representative Peggy Wilson  
Attn: Becky Rooney

**FROM:**   
Donald M. Bullock Jr.  
Legislative Counsel

You asked for my comments on the letter from the Department of Law (Jan. 9, 2006) on the solid waste management authority legislation, HB 392. I will base my comments on the current version of the bill, CSHB 392(CRA).

I agree with the statement in the letter that "AS 46.03.100 (including its financial assurance requirements for municipal solid waste disposal facilities), as well as other applicable state and federal laws and regulations governing environmental matters for waste management and disposal facilities would apply to an Authority's facility."

The letter raises the issue that the power of the authority to regulate land use within its boundaries on page 5, line 16, may lead to conflicts with other state laws or municipal ordinances that may involve land use regulation. With regard to conflicts with municipal ordinances, the municipalities that enact ordinances granting powers to an authority can consider this issue and draft the ordinances to be consistent with existing ordinance or may amend existing ordinances for compatibility. With regard to conflicts with state law, I suggest you ask the Department of Law to be more specific concerning the perceived risk. I expect the land use would be directly related with the purpose of the authority and land use issues could be resolved in the course of the permitting process.

The letter notes that "special assessment" is not defined in the legislation. The term is not defined within the bill, however all municipalities are authorized to levy a special assessment under AS 29.35.010(6), and AS 29.46.010 provides for an assessment imposed against property "to be benefited by an improvement all or a portion of the cost of acquiring, installing, or constructing capital improvements."

The letter points out the strict liability for the release of hazardous substances under AS 46.03.822 and notes that the bill does not clearly provide immunity from this liability to an individual member of an authority. I agree that an individual member of an authority may be exposed to the liability. Subject to the relief from liability in

Representative Peggy Wilson  
February 20, 2006  
Page 2

AS 46.03.822(b), AS 46.03.822(a) imposes liability on the following:

(1) the owner of, and the person having control over, the hazardous substance at the time of the release or threatened release; this paragraph does not apply to a consumer product in consumer use;

(2) the owner and the operator of a vessel or facility, from which there is a release, or a threatened release that causes the incurrence of response costs, of a hazardous substance;

(3) any person who at the time of disposal of any hazardous substance owned or operated any facility or vessel at which the hazardous substances were disposed of, from which there is a release, or a threatened release that causes the incurrence of response costs, of a hazardous substance;

(4) any person who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances owned or possessed by the person, other than domestic sewage, or by any other party or entity, at any facility or vessel owned or operated by another party or entity and containing hazardous substances, from which there is a release, or a threatened release that causes the incurrence of response costs, of a hazardous substance;

(5) any person who accepts or accepted any hazardous substances, other than refined oil, for transport to disposal or treatment facilities, vessels or sites selected by the person, from which there is a release, or a threatened release that causes the incurrence of response costs, of a hazardous substance.

As you are aware, one difference between CSHB 392(CRA) and HB 392 is that the CS requires an authority to maintain pollution liability insurance (page 6, lines 2 - 6) and the original bill made the insurance subject to the discretion of the authority. Although this seems to address the issue raised in the letter, I suggest that a municipality considering the formation of a solid waste management authority consult with the municipality's liability insurer to discuss the extent of risks and the appropriate insurance options.

If I may be of further assistance, please advise.

DMB:ljw  
06-086.ljw



# Southeast Conference

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## Alaska Solid Waste Entity Formation

A Look at Options to Coordinate  
Transfer, Handling and Disposal of Solid Wastes  
In Alaskan Communities



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