



HB

289

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 289(FSH)
 (H) Publish Date: 1/30/08

Identifier (file name): HB289-DOLWD-UI-1-11-08 Dept. Affected: Labor and Workforce Development
 Title: Employment Tax Exemption: Spill Response RDU: Employment Security
 Component: Unemployment Insurance
 Sponsor: Representative Harris
 Requester: _____ Component Number: 2276

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING		0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES								
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CHANGE IN REVENUES (33030)	*	*	*	*	*	*	*	*
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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 Interagency Receipts								
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2008) cost: None

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

See attached.

Prepared by: Thomas W. Nelson, Director
 Division: Division of Employment Security
 Approved by: Click Bishop, Commissioner
Department of Labor and Workforce Development

Phone: 465-5933
 Date/Time: 1/11/08 2:14 PM
 Date: 1/11/08

FISCAL NOTE #1

STATE OF ALASKA
2008 LEGISLATIVE SESSION

BILL NO. CSHB 289(FSH)

ANALYSIS CONTINUATION

This bill excludes from the definition of "employment" services performed by crewmembers on any fishing boat, ship, or other craft that responds, prepares to respond or engages in an emergency or practice drill in response to an oil spill.

There are no anticipated costs associated with administering this piece of legislation.

There would be a loss of revenue into the Unemployment Insurance (UI) Trust Fund as boat owners/operators and crewmembers would no longer be required to pay into the UI Trust Fund for services provided by crewmembers for oil spill response activities and their crewmembers would not be able to use oil spill recovery wages to qualify for UI benefits.

*Due to the numerous variables involved we are unable to derive an accurate estimate of the loss of revenue to the UI Trust Fund. It is believed that unless the oil spill was catastrophic in nature, similar to the Exxon Valdez oil spill, the total loss of revenue would be minimal.

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSHB 289(FSH)
 () Publish Date: _____

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 Title: Employment Tax Exemption: Spill Response RDU: Employment Security
 Sponsor: Representative Harris Component: Unemployment Insurance
 Requester: House L&C Component Number: 2276

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CAPITAL EXPENDITURES								
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Estimate of any current year (FY2008) cost: None

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

This bill excludes from the definition of "employment" temporary services related to oil spill training and response activities by crewmembers on fishing boats described under 23.20.526(a)(17). The term "temporary" is defined as a period of less than 7 continuous days.

There are no anticipated costs associated with administering this piece of legislation.

*Because the exclusion is limited to services performed for a period of less than 7 continuous days, it is believed the loss of revenue into the Unemployment Insurance (UI) Trust Fund would be minimal.

Prepared by: Thomas W. Nelson, Director
 Division: Employment Security Division
 Approved by: Click Bishop, Commissioner
Department of Labor and Workforce Development

Phone 465-5933
 Date/Time 1/30/08 2:35 PM
 Date 1/30/08

Alaska State Legislature

Speaker John Harris

Room 208
Juneau, AK 99801
Phone: 907-465-4859



Rep. Paul Seaton

Room 102
Juneau, AK 99801
Phone: 907-465-2689

House District 12 ~ House District 35

MEMORANDUM

TO: Representative Kurt Olson, Chair
House Labor and Commerce Committee

FROM: Speaker John Harris
Representative Paul Seaton

DATE: Thursday, January 31, 2008

RE: Names of witnesses for HB 289

We anticipate that the following people will be either online or in person to testify to the House Labor and Commerce Committee and/or be available for committee questions when HB 289 is heard. If we encounter additional people who would be valuable to the committee, I will let your committee aide know as soon as possible.

Pala Scavera	Legislative Liaison, DOL	465-4351
John Velsko	Homer Dir., RCAC	299-1215
Tom Colby	Captain, AK Tanker Co.	
Tracey Mayhew	Seafarers Int. Union	561-4988
Betty Schorr	Program Manager, Oil Spill Response, DEC	269-3054

Staff contacts: Katie Shows (Rep. Seaton) x2028
John Bitney (Speaker Harris) x4859

Alaska State Legislature

Speaker John Harris
Room 208
Juneau, AK 99801
Phone: 907-465-4859



Rep. Paul Seaton
Room 102
Juneau, AK 99801
Phone: 907-465-2689

House District 12 ~ House District 35

HB 289 encourages participation in the state's oil spill response program by exempting fishing vessel owners and crew who participate from having to pay unemployment taxes while they are performing oil spill response duties.

Vessel owners and crew members undergo oil spill response training to be prepared to respond to state disasters as a service to the state on a voluntary basis. Training for the program and responding to small spills only takes a few days at a time, filing paperwork and paying unemployment taxes for such a short period of service is unreasonably burdensome. Because commercial fishermen are not covered by unemployment insurance when they engage in commercial fishing, most will not be in a position to have enough service time accrued to collect unemployment after having only worked a handful of qualified days in the oil spill response program.

In the unfortunate event of a large spill (such as the Exxon Valdez), if vessels spend seven or more continuous days responding to an oil spill vessel owners would be required to participate in the unemployment system and their crew would be covered.

In summary, HB 289 encourages fishermen to continue to participate in the state's oil spill response program by removing burdensome unemployment requirements. The state needs more vessels willing and able to respond to such disasters and must work to remove barriers to their participation.

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RECEIVED
Department of Labor

MEMORANDUM

State of Alaska

FEB 24 1999

Department of Law

TO: Honorable Ed Flanagan
Commissioner
Department of Labor
Office of the Commissioner

February 17, 1999

FILE NO: 661-98-0255
TEL. NO: 269-5178
SUBJECT: Test Fishing

*Comm cc
Dwight cc
cc: Alaska
Shell
Jy
AS Justice Com*

FROM: Toby N. Steinberger *TNS*
Assistant Attorney General
Governmental Affairs Section, Anchorage
Department of Law

Commissioner Cashen requested our opinion on whether fishermen performing "test fishing" are entitled to benefits from the Fishermen's Fund established under AS 23.35.010 if they are injured while conducting "test fishing." It is our opinion that fishermen who are injured while they are performing test fishing are not entitled to benefits from the Fishermen's Fund because they were not commercial fishing when they were injured.

Under AS 16.05.050, the Department of Fish and Game contracts with the owner or master of a vessel to conduct test fishing.¹ The terms of the contracts vary. In some cases, the contract provides that, in return for conducting the test fishing, the owner or master of the vessel may receive a portion of the value of the fish delivered to the state. In some cases, the owner or the master of the vessel may keep and sell the fish. Yet, in other cases, the Department of Fish and Game may contract to have the vessel owner conduct test fishing for a fee unrelated to the value of the fish. Crew members of the fishing vessel will likely have commercial fishing licenses or fishing permits.

Under AS 23.35.070, "a fisherman, upon becoming disabled, is entitled to receive benefits" However, only fishermen actually engaged in commercial fishing at the time of their injury are entitled to benefits from the Fishermen's Fund. Alaska Statute 23.35.150(3) defines "fisherman" to mean a fisherman engaged in commercial fishing. Alaska Statute 23.35.150(3) reads:

(3) "fisherman" means a person who is licensed by the state to engage in commercial fishing under AS 16.05.480 or who is the holder of a permit issued under AS 16.43 and who, at the time injury is sustained or illness is contracted, is actually

¹ See generally Kodiak Seafood Processors Ass'n. v. State, 900 P.2d 1191 (Alaska 1995).

Fish FEB 26 1999
Funt

DOL-WC FEB 25 1999
JUNEAU

Honorable Ed Flanagan
Commissioner, Department of Labor
File No. 661-98-0255

February 17, 1999
Page 3

We trust this answers the questions raised in your request for advice. If you have any questions, please feel free to call us.

TNS:vb

Fish Fund FEB 25 '99

REC- FEB 25 1999

Oil-spill fishing vessels hit with state unemployment tax

UNEMPLOYMENT: Some owners say they'll pull out of the response plans.

By WESLEY LOY
wloy@adn.com

Published: November 1, 2007

Last Modified: November 1, 2007 at 05:37 AM

A key component of plans to clean up a big oil spill in Prince William Sound -- using a fleet of fishing boats -- to help corral the oil -- might be in danger of unraveling due to a new state labor demand, an oil industry watchdog group says.

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This summer some boat owners got letters from a state Labor Department auditor saying they need to pay unemployment insurance taxes for crewmen working in spill response or drills.

And more letters might be coming. A week ago, labor officials asked Alyeska Pipeline Service Co., the oil company consortium that runs the Valdez tanker port, for the full list of fishing boats with which Alyeska holds contracts for spill response.

Some fishermen have vowed to quit the industry-funded oil spill response program due to the paperwork and costs involved with unemployment insurance.

"Our concern is that it will damage or, in the worst case, wipe out the fishing vessel program," said Stan Jones, spokesman for the Valdez-based Prince William Sound Regional Citizens' Advisory Council.

The council and the fishing boat cleanup program both were created in the wake of the Exxon Valdez tanker disaster in 1989, which released nearly 11 million gallons of oil into the Sound.

If another spill happened, as many as 350 fishing boats from Cordova, Valdez, Whittier and other ports would help deploy boom to contain the oil for recovery with skimming equipment.

The fleet is now part of the oil industry's mandatory plans for how it will respond to a spill.

Boats participate in annual spill training exercises that typically last a day or two.

Alaska law exempts many commercial fishing boat owners from paying for unemployment insurance because crewmen typically are not paid wages. Rather, they earn a share of proceeds from the catch.

But the state letter to boat owners says payments to crewmen employed during spill response drills "are reportable for unemployment insurance purposes."

It means fishing vessel owners likely would have to pay between 3 percent and 4 percent of a deckhand's pay, and the deckhand would have to pay another half a percent, for state unemployment insurance.

COST AND HASSLE

Some boat owners balk at the cost and quarterly reporting requirements of getting involved with unemployment insurance for the few days a year they're engaged in spill response.

At least three even vowed to quit the fishing vessel spill response program.

"But I don't know really how serious they were about it," said Thane Miller, a Valdez commercial salmon fisherman.

The unemployment insurance issue is "really sort of an oversight on the part of the fishing vessel owners," Miller conceded. "I actually believe it was something we should have been doing all along."

But fishermen hate paperwork and would like to see their spill-response work exempted from the unemployment insurance requirement, he said. Or maybe allow boat owners to simply write the state a check after each spill drill.

ALYESKA SETTLEMENT

The oil industry pays boats based on size for their participation. Miller said his boat gets \$1,850 a day for spill response drills, plus a fuel allowance. Of this, \$250 a day goes to each of his two crewmen. Beyond this he's got boat insurance, wear and tear, and risk to worry about.

"The fishing vessel response fleet acts like a paid volunteer fire department," he said. "We are expected to drop our lives at a phone call and a moment's notice and get on a boat and go do what's necessary, whether

for training or otherwise. But it's not an income that anybody relies on."

Anything that raises the cost and hassle of taking part in the spill response program makes an already marginal job even less

attractive, Miller said.

Tom Nelson, director of the state Employment Security Division, said his office has an obligation to seek unemployment insurance taxes from all employers who owe them.

Complying isn't that burdensome, and the state is glad to help any fisherman or other employer get started, Nelson said.

TRICKY SOLUTIONS

Jones said the citizens' advisory council is studying possible solutions, such as amending state law to exempt the fishing boats from the tax when engaged in spill response. Another idea is making boat crews temporary employees of Alyeska during spill drills. Alyeska would then take care of the employment insurance.

Anil Mathur, president of Alaska Tanker Co., the oil shipper for major Alyeska owner BP, said he doesn't like the idea of temporary employment. That would blur who is responsible for managing fishing boat crews, he said.

Mathur questioned the value of the state pursuing the fishing boat owners for unemployment insurance. He said such collections likely would total less than \$50,000 a year.

"It's really not something that adds zeros to the Alaska treasury," he said.

He believes the issue could be resolved with a simple amendment to state law saying fishing boats are exempt from unemployment insurance requirements not only when they're fishing, but when engaged in oil spill response drills in Prince William Sound.

"I don't really see it as that big a deal," Mathur said.

Nelson said the amount of potential revenue isn't the point. It's a matter of fairness that all employers contribute to the state trust fund that pays unemployment benefits, he said.

Jones said the advisory council is concerned that seeking exemptions for state unemployment insurance is not as simple as it sounds, in part due to potential conflicts with federal law.

Douglas Mertz, a lawyer for the advisory council, said in a memo last month that "a legislative fix would be very difficult." While some state officials see potential for only a handful of boats leaving the spill response program, Mertz said that "we could see a wider owner rebellion."

Alyeska spokesman Mike Heatwole said Wednesday he knows of no fisherman who has actually quit the program.

Alyeska plans to stay out of the unemployment insurance issue because "it's a tax matter between the state of Alaska and the fishing vessel operators."

Find Wesley Loy's commercial fishing blog online at adn.com/highliner or call 257-4590.



The Observer

VOLUME 18, No. 1/JANUARY 2008

Chamber of Commerce - AK Wilderness Recreation & Tourism Assoc - Chugach Alaska Corp - Cordova District Fishermen United - OSREC - PWS Aquaculture Corp

New legislative committee is formed, already faces fishing vessel problem

The council's Legislative Affairs committee for 2008, formed in December, is already focusing on what would become a major council issue: a state requirement that fishing vessel captains pay unemployment taxes for crew members during oil-spill response training.

The six-seat committee, made up of council board members, monitors action in Juneau during the legislative session, advising the full council as needed. This year's members are Patience Andersen of Cordova, Steve Lewis of Kodiak, Blake Johnson of Kenai, John Velsko of Homer, John French of Kodiak, and Walt Parker of Anchorage. Johnson and French are the chair and vice chair. The committee is supported by the council's legislative monitor, Juneau attorney Douglas Mertz.

The issue of unemployment insurance for fishing vessel crews surfaced in July, when the state Department of Labor began notifying vessel captains they were liable for the tax. In the past,

participants in Alyeska's fishing vessel program believed crews were exempt during oil-spill training, as they are when fishing.

But Erna Sturman, a field auditor for the labor department, wrote in the July 20 letter that "Alaska law does not exempt wages or shares paid to your employees while working in . . . oil spill drill operations."

Alyeska's program involves about 350 fishing vessels that would be available for cleanup operations in the event of a major oil spill. Alyeska pays the captains via contract, and the captains pay the crews. Those vessels are kept under contract and receive regular training so they can respond immediately to spills.

As the state's letter began circulating, the council started hearing concerns that captains might drop out rather than put up with the unemployment insurance paperwork for just a few days a

See page 2, **VESSELS**



FISHING TOWN—The council's September board meeting took place in Kodiak. Like most of the council's member communities, Kodiak is heavily dependent on commercial fishing. Photo by Tom Kuckertz.

Stephens leaving board after 18 years

Stan Stephens, who started service on the citizens' council board in 1990, resigned his seat at the start of this year.

He said in a letter announcing his resignation that he plans to continue his



and was elected president several times. His most recent term in the top post ended in May 2007.

Stephens, who was born and raised in Minnesota, has been in Alaska since 1961. He is the owner and

Work continues on tanker spill plans

as federal court and in the state courts
er of Texas and Alaska, as well as the
ht U.S. District Court in Alaska, the U.S.
re Court of Appeals, Ninth Circuit, and
of the U.S. Supreme Court. In addition,
al he teaches math at a private school in
Anchorage.

When Skladal heard after the
1989 Exxon Valdez oil spill that the
citizens' council was forming a com-
mittee to oversee operations at the
Valdez tanker terminal, he was one

In 1993, Skladal began taking art
lessons—first painting, then drawing,
and now sculpture and hand-thrown
ceramics. It was a childhood inter-
est, but one that he never had time to
develop. His masterpieces can now
be found on display at UAA, up for
high bidding at fund raising events,
or throughout his home.

Another hobby of his includes
swimming 1,400 miles each year. And
he plans to stick with that, too.

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rick Duffy

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VESSELS: Fix may be in works

Continued from Page 1

year of oil-spill training.

The council conducted a survey of fishing vessel captains about the problem. Some said the paperwork was manageable; others were upset and said it could deter participation. "It's a royal pain," one of the captains complained. "It sure adds a lot of extra to a simple drill."

Because of the potential for disrupting the fishing vessel program, the council began looking into possible fixes, such as a change to state law. A bill has been introduced by Reps. John Harris of Valdez and Paul Seaton of Homer to exempt crews from the unemployment tax while in the fishing-vessel program.

But it's not clear that changing state law would be a complete solution. Unemployment

insurance is governed by the Federal Unemployment Tax Act, which may not allow the exemption envisioned in the Harris-Seaton bill.

That's according to Mertz, the legislative monitor. In a legal analysis, he wrote that "none of the exemptions in the federal law would exempt fishing vessels or their crew while acting as spill responders."

The state Department of Law is reportedly reviewing the state-federal jurisdictional issue, but no opinion had been released by Observer press time.

"We'd hate to see the fishing vessel program fall apart because of this problem," said John Devens, the council's executive director. "We'll do everything we can to help fix it, including taking it to the federal level if that turns out to be necessary."

The Observer



Cordova District Fishermen United
PO Box 939 | 509 First Street | Cordova, AK 99574
phone: (907) 424 3447 | fax: (907) 424 3430
web: www.cdfu.org | email: cdfu@ak.net

Representative John Harris
State Capitol, Room 208
Juneau, AK 99801-1182

January 15, 2008

Re: HB 289" Tax Exemption: Spill Response

Dear Representative John Harris,

Cordova District Fishermen United (CDFU) wants to thank you for introducing this important piece of legislation.

We are in full support of House Bill 289.

CDFU is a membership organization that represents over 500 commercial fishers in Prince William Sound. The regional Ship Escort Response Vessel System fleet is comprised of approximately 200 of our individual members who, along with their designated response crew are trained as professional oil spill responders. These individuals are the first line of defense in the event of an oil spill in Alaska's waters.

As your bill recognizes, requiring vessel owners to process and pay Alaska Department of Labor taxes for crew earnings would place a disproportionate burden on vessel owners. On behalf of our members, we truly appreciate your efforts to find a workable solution to this issue.

Yours Sincerely,

Gerald McCune
President



Anil Mathur
President & Chief Executive Officer

Alaska Tanker Company, I.L.C.
15400 NW Greenbrier Parkway
Parkside Building, Suite A400
Beaverton, OR 97006

503-207-0046
Fax 503-207-0063
E-mail: Anil.Mathur@alaskaner.com

January 25, 2008

Representative Paul Seaton
Chair, House Fisheries Committee
Capital Building
Juneau AK 99801-1182

Re. House Bill 289

Dear Chairman Seaton

ATC supports passage of HB 289. The fishing vessels are an integral part of an oil spill response should a spill to sea occur. We consider the fishing vessels owners and fishermen our partners in response. This Bill eliminates some paper work burden on the fishermen and the fishing vessel owners, and also provides some financial relief to these entities as they prepare for and assist in incident response.

Our Contingency Plan in case of a spill relies on the cooperation and enrollment of the fishing fleet in our response to a spill. This Bill encourages their participation, so we support it.

We believe using fishing vessels in case of a spill is good for all affected entities, and results in a more robust response.

Very Truly Yours,

Anil Mathur
President and CEO



This letter is in regards to the recent documents, about paying unemployment taxes for crew members, that were sent to the to the contract holders for the oil spill response industry fishing vessel program. I have included copies of those documents and this letter is a brief summary of the fishermen's response to this and the possible outcome from this.

Many fisherman have been in contact with their accountants or tax persons about this and they don't see any way around this other than the fisherman will have to file and pay this tax. The fisherman are asking why the State of Alaska can't just roll the oil response vessels into the same exemption as commercial fisherman (AS 23.20.526A17).

As you can see from forms 940 and 941 there is a lot of time and paper work involved as well as a lot of cost because time means money in addition to the actual tax itself.

Also the fisherman will be required to file with the Federal Government under FUTA and will now have to file quarterly reports for their taxes which only adds more paper work.

Even though fishermen and their crew will be paying unemployment tax, there is no mechanism for them to ever be able to draw money out even if they are unemployed.

Many fisherman have indicated that if they have to do all this paper work and pay this tax, they will probably drop out of the oil spill vessel response programs.

The State of Alaska needs to step up and go to bat for the States on water volunteer fire department that shows up with their own fire trucks so to speak and not require them to have to pay this unemployment tax.

Thank you,
Dave Blossom.

Form 940 (2006)

Privacy Act and Paperwork Reduction Act Notices. We ask for the information on this form to carry out the Internal Revenue laws of the United States. We need it to figure and collect the right amount of tax. Chapter 23, Federal Unemployment Tax Act, of Subtitle C, Employment Taxes, of the Internal Revenue Code imposes a tax on employers with respect to employees. This form is used to determine the amount of the tax that you owe. Section 6011 requires you to provide the requested information if you are liable for FUTA tax under section 3301. Section 6109 requires you to provide your employer identification number (EIN). If you fail to provide this information in a timely manner, you may be subject to penalties and interest.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books and records relating to a form or instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law.

Generally, tax returns and return information are confidential, as required by section 6103. However, section 6103 allows or requires the IRS to disclose or give the information shown on your tax return to others

as described in the Code. For example, we may disclose your tax information to the Department of Justice for civil and criminal litigation, and to cities, states, territories, and the District of Columbia for use in administering their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal non-tax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is: Recordkeeping, 24 hr., 39 min.; Learning about the law or the form, 1 hr., 23 min.; Preparing and sending the form to the IRS, 2 hr., 17 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making Form 940 simpler, we would be happy to hear from you. You can write to: Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:SP, 1111 Constitution Avenue, NW, IR-6408, Washington, DC 20224. Do not send Form 940 to this address. Instead, see Where Do You File? on page 2 of the instructions for Form 940.

WZ's

LICENSE

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ANNUAL FUTA
REPORT
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ESC → FUTA, 941
MEDICARE
CHILD SUPPORT

→ Calculated
\$ 56 per \$ 7000.00

940 FUTA

Form 941 (Rev. 1-2007)

Privacy Act and Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. We need it to figure and collect the right amount of tax. Subtitle C, Employment Taxes, of the Internal Revenue Code imposes employment taxes on wages, including income tax withholding. This form is used to determine the amount of the taxes that you owe. Section 6011 requires you to provide the requested information if the tax is applicable to you. Section 6109 requires you to provide your employer identification number (EIN). If you fail to provide this information in a timely manner, you may be subject to penalties and interest.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books and records relating to a form or instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law.

Generally, tax returns and return information are confidential, as required by section 6103. However, section 6103 allows or requires the IRS to disclose or give the information shown on your tax return to others as described in the Code. For example, we may disclose your tax information to the Department of

Justice for civil and criminal litigation, and to cities, states, and the District of Columbia for use in administering their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

The time needed to complete and file Form 941 will vary depending on individual circumstances. The estimated average time is:

Recordkeeping	12 hr., 39 min.
Learning about the law or the form	40 min.
Preparing the form	1 hr., 49 min.
Copying, assembling, and sending the form to the IRS	16 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making Form 941 simpler, we would be happy to hear from you. You can write to: Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-8408, Washington, DC 20224. Do not send Form 941 to this address. Instead, see *Where Should You File?* on page 4 of the instructions for Form 941.

941

Rough total
APPROX. 7% annual

MATCHING
Retrly
FICA & MED

DEPARTMENT OF LABOR & WORKFORCE DEVELOPMENT
EMPLOYMENT SECURITY DIVISION

Sarah Palin, GOVERNOR

11312 KENAI SPUR HIGHWAY
SUITE 2
KENAI ALASKA 99611-9106
PHONE: (907) 283-4478
FAX: (907) 283-5152

November 5, 2007

LEE MARTIN
BAD BETTY
PO BOX 743
HOMER AK 99603

Dear Boat Owner:

We have received information that indicates that you may be engaged in tendering operations or oil spill response drill exercises in Alaskan waters.

Under Alaska law, wages paid to your employees (crew) for tendering operations or oil spill response drills are reportable for unemployment insurance purposes. Alaska laws exempt fishing operations for Alaska-based employers fishing with a crew of fewer than ten members who are paid on a share basis (AS 23.20.526 a 17). However, Alaska law does not exempt wages or shares paid to your employees while working in tendering or oil spill drill operations.

If you are paying wages reportable to the Alaska Department of Labor and Workforce Development, please complete and return the enclosed Registration Form TREG and return it within 15 days to be in compliance with the Alaska Employment Security law.

If you are not paying any reportable wages, please date and sign this letter below and return it within 15 days. Please also include your phone number in case we have further questions.

Thank you for your time and cooperation. Please call me at (907) 283-4478 if you have any questions concerning this matter.

Sincerely,

James Nantau
Field Auditor

Encl: Employer Registration Form

**Alaska Department of Labor
and Workforce Development
Employment Security Division
Employment Security Tax**

Alaska Employer Registration Form

Juneau - Registration
1111 W. 8th St., Room 203
PO Box 115509
Juneau, AK 99811 - 5509
(907) 465-2757
Fax (907) 465-2374

Anchorage Employment Security Tax Office
3301 Eagle St., Room 106
PO Box 241767
Anchorage, AK 99524 - 1767
(907) 269-4850
Fax (907) 269-4845

Fairbanks Employment Security Tax Office
675 Seventh Avenue, Station L
Fairbanks, AK 99701 - 4513
(907) 451-2876
Fax (907) 451-2883

Juneau Employment Security Tax Office
1111 W. 8th St., Room 203
PO Box 115509
Juneau, AK 99811 - 5509
(907) 465-2757
Fax (907) 465-2374

Kenai Employment Security Tax Office
11312 Kenai Spur Hwy, Suite 2
Kenai, AK 99611 - 9106
(907) 283-4478
Fax (907) 283-5152

Wasilla Employment Security Tax Office
877 Commercial Drive
Wasilla, AK 99654-6937
(907) 352-2535
Fax (907) 352-2581

Who is required to file this form?

Every employing unit, including any person, firm, corporation, or other type of organization that for some portion of a day within the calendar year has employed one or more persons, is required by law and regulation to file this report. If you are uncertain of your need to register, contact the Registration Unit or your nearest Field Tax Office.

TO CONTACT US:

- ◆ Toll-free telephone number to connect to your Field Auditor if you are located in Alaska (except Anchorage, Fairbanks, Juneau, Kenai, or Wasilla), out-of-state, and Canada:
1-888-448-2937
- ◆ Toll-free telephone number to connect to your Employer Account Representative in our Central Office in Juneau for all areas outside Juneau, out-of-state, and Canada:
1-888-448-3527
- ◆ Toll-free telephone number to connect to Relay Alaska TDD/TTY/TT Services:
1-800-770-8973
- ◆ E-mail at: esc_tax@labor.state.ak.us

Mail the completed Registration Form to:

Alaska Department of Labor
and Workforce Development
Employment Security Tax
PO Box 115509
Juneau, AK 99811 - 5509

We are an equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities.

Form TREG (REV 08)

INSTRUCTIONS FOR NEW EMPLOYERS

Check the box on the top left of Page 3 to indicate if this is a new or update registration. Complete the following if you are a new employer. See below for update instructions.

1. Mark the item that describes your business entity and complete the additional information requested.

If you have selected **NONPROFIT ORGANIZATION** and are exempt under IRC 501(c)(3) and 501(c)(29), you may be able to choose whether you wish to be a regular taxable employer paying at an annual rate, or a reimbursable employer that pays back or reimburses the UI Trust Fund for the actual dollar amount of benefits drawn by former employees. As a reimbursable employer, a maximum \$10,000 bond or deposit is required. Please contact the Employer Account Specialist Unit in Juneau at 907-463-2757 or toll-free at 1-822-448-3527 for information on the deposit and bond requirements. You will be required to present your IRS exemption letter and bond prior to establishing an account.

2. List your Federal Employer Identification Number (FEIN). If you have employees, you must have an FEIN. *Do not use your Social Security Number.*
3. If you were previously assigned an account number by the Employment Security Division in the last three years, indicate that number.
4. Mark the appropriate box if you wish to cover excluded employees. If Yes, complete top of Page 4. See Page 4 for partial listing of excluded employment that may be covered. For a complete explanation of excluded employment see AS 23.20.225 and AS 23.20.526.
5. Indicate the month, day, and year your business first paid or anticipates to first pay wages in Alaska.
6. Indicate if you anticipate hiring contract labor to perform the nature of your business described in item 13.

If you have questions, or are unsure of the tax liability of contract labor, contact the Field Tax Office nearest your location.

7. List the legal name of the business. If a corporation, list exactly as registered with the Department of Community and Economic Development.
8. List the "doing business as" (dba) name of the business if different than item 7.
9. List the mailing address of the business.
10. List the phone number of the business.
11. List your physical worksite address in Alaska if different than item 9. If you do not have a physical worksite in Alaska, please explain. If there is more than one worksite, list additional worksites on Page 4.
12. List your FAX number.
13. This item contains information that is necessary for assignment of your tax rate.

Failure to complete this section may result in a higher tax rate being assigned to your account.

Describe in detail the specific product(s) sold or service(s) your business will provide in Alaska. Also indicate if sales are retail or wholesale. For example, general contractor building single-family homes; specialty contractor specializing in commercial or residential ceramic tile installation; insurance agent/broker; or retail sale of clothing; etc.

14. Indicate the percentage of Alaska gross income that is provided by the activity described in item 13. This is usually 100%; however, if you have more than one activity, you will need to divide the income into percentages for each activity. Do not list the dollar amount of gross income. List only the percentage of income.
15. Indicate the number of employees you anticipate hiring to perform the business activities.
16. If you changed or purchased an existing business, list the month, day, and year the acquisition took place.
17. List the month, day, and year you first paid wages for the business. This should be the same date as item 5 above.
18. If the business was acquired from previous owners, mark the type of acquisition change that took place. If needed, explain on a separate piece of paper.
19. Mark how the previous business was acquired. If needed, explain on a separate piece of paper.
20. List the percentage of Alaska operating assets acquired from the previous business.
21. List ALL the prior owner(s) name(s), FEIN, and business (dba) name(s) of the acquired business.
22. List all account number(s) of the acquired business (es).
23. List the number of employees acquired from the predecessor employer.

OWNERSHIP INFORMATION:

- Sole Proprietor:** List your name, residence address, and Social Security Number.
- Partnership:** List the requested information for each partner.
- Corporation:** List the requested information for each corporate officer.
- LLC:** List the requested information for each manager of the Limited Liability Company or member if no managers were elected.
- Non-Profit:** List the requested information for directors, trustee, executor, or other principal.
- Other:** List the requested information for owners or other principals.

Responsibility Codes:

1. File contribution reports
2. Pay contributions due
3. Person determines which creditor is paid first
4. Check signing authority
5. Hire/Fire authority
6. All of the above

CERTIFICATION and SIGNATURES:

This Registration form must be signed by the **SOLE PROPRIETOR**, ALL **PARTNERS** of a partnership, ALL **CORPORATE OFFICERS** of a **CORPORATION**, or the **MANAGER** (or if no manager, the members) of an **LLC**. If you have a **Business Contact Person**, provide their Name, Phone Number and e-mail address.

All new taxable employers or prospective employers must complete items 13 and 14 on Page 3. Failure to complete these items may mean that your account will be assigned a higher tax rate.

UPDATE REGISTRATION INSTRUCTIONS

To update registration information, be sure to check the update box at the top left of the form in the Department of Labor address block. Always complete item 7 and item 8, listing the name(s) on your account, along with those items that have changed, or those items that you have been instructed to complete.

Alaska Employer Registration Form

Form TREG (Rev 9/07)

Alaska Department of Labor and Workforce Development Employment Security Tax PO Box 115509, Juneau, AK 99811-5509	<input type="checkbox"/> New <input type="checkbox"/> Update	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20%;">Federal EIN</td> <td style="width: 20%;">State EIN</td> <td style="width: 20%;">Federal EIN</td> <td style="width: 20%;">State EIN</td> <td style="width: 20%;">Federal EIN</td> <td style="width: 20%;">State EIN</td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </table>	Federal EIN	State EIN	Federal EIN	State EIN	Federal EIN	State EIN						
Federal EIN	State EIN	Federal EIN	State EIN	Federal EIN	State EIN									

COMPLETE BOTH SIDES OF FORM THE ABOVE AREA IS FOR STATE USE ONLY

Type of Business: <input type="checkbox"/> Sole Proprietor <input type="checkbox"/> Partnership: <input type="checkbox"/> General <input type="checkbox"/> Limited <input type="checkbox"/> Date Partnership Formed: _____	
<input type="checkbox"/> Nonprofit Organization Method of Payment: <input type="checkbox"/> Taxable <input type="checkbox"/> Retainable <input type="checkbox"/> Other: _____	
<input type="checkbox"/> Limited Liability Company (LLC) Number of Managers (or members if no managers): _____ Date Formed: _____ State Corporation Number: _____	
Federal Identification Number: _____	3) Have you ever assigned an Account Number by this Agency? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, for number: _____
4) Do you wish to cover excluded employees? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, see Page 4	
5) What is the date your business first paid wages in Alaska, or the commencement date you will pay wages? Month: _____ Day: _____ Year: _____ (Your account will be opened this date)	
6) Do you anticipate using Contract Labor to perform the activities stated in Item 13? <input type="checkbox"/> Yes <input type="checkbox"/> No	

7) Legal Business Name: _____	8) Doing Business As (DBA) Name: _____
9) Mailing Address: _____ City: _____ State: _____ Zip: _____	
10) Business Phone: _____	
11) Physical Website Address in Alaska (list additional websites on Page 4): _____	
12) Fax Number: _____	
13) Describe (IN DETAIL) the major product sold or service you provide in Alaska: _____ _____ _____ See Page 2 for complete instructions	14) % of Gross Alaska Income derived from Item 13: _____
15) Number of employees in Alaska: _____	

Complete this section if you have changed your business or have acquired an Alaska business operation.

16) Date changed or acquired: Month: _____ Day: _____ Year: _____		17) Date wages first paid under new ownership: Month: _____ Day: _____ Year: _____	
18) Type of Change: <input type="checkbox"/> Change in Entity (Sole Proprietorship to partnership, Partnership to Corporation, etc.) <input type="checkbox"/> Change in Partner <input type="checkbox"/> Change in Corporation Stock Transfer <input type="checkbox"/> Corporate Charter Change <input type="checkbox"/> Corporate Officer Change <input type="checkbox"/> Other (Explain): _____			
19) Was business acquired through: <input type="checkbox"/> Purchase <input type="checkbox"/> Lease <input type="checkbox"/> Foreclosure <input type="checkbox"/> Reacquisition <input type="checkbox"/> Other (Describe in detail on separate paper)		20) What percentage of the Alaska Operating Assets were acquired? _____	
21) Prior Owner(s) Name(s), FEIN, and Business (DBA) Name: _____		22) Prior Account Number: _____	
23) Number of Employees Acquired: _____			

Information and signature of a sole proprietor, each partner, all corporate officers, and all managers and/or members of an LLC

CERTIFICATION: With my signature, I certify that information provided on this form is correct and true

Printed Name & Social Security Number	Signature	Residence Address & Telephone Number	Title and Effective Date	% Owned	Code
Name: SSN:		Residence Address: City: _____ State: _____ Zip Code: _____ Residence Telephone: _____	Title: Effective Date: _____		
Name: SSN:		Residence Address: City: _____ State: _____ Zip Code: _____ Residence Telephone: _____	Title: Effective Date: _____		
Name: SSN:		Residence Address: City: _____ State: _____ Zip Code: _____ Residence Telephone: _____	Title: Effective Date: _____		
Name: SSN:		Residence Address: City: _____ State: _____ Zip Code: _____ Residence Telephone: _____	Title: Effective Date: _____		
Business Contact Person:		Phone Number:	E-mail:		

DBA Name: _____ Account No: _____

Voluntary Election of Coverage for Excluded Employment

Check the types of non-covered employment you wish to cover:

- Corporate Officers Domestic _____
- Fishing Other (Specify) _____

Indicate the date you request coverage of excluded employment to be effective: _____

Signature and Title

Business Phone

If you represent a corporation and wish to have corporate officers covered, all officers must be covered as a group

This agreement, when approved, is binding for the remainder of the calendar year in which it is received and two additional years. Coverage continues in effect on a yearly basis until either you or the Agency terminates the agreement in writing before March 15 of the year for which the termination is requested. In the event your taxes become delinquent, the Agency reserves the right to cancel your Voluntary Coverage election effective the quarter the taxes become delinquent.



Additional Worksites (See instructions on Page 2, Item 11)

Second Worksite

Name (Doing Business As) _____

Mailing Address	City	State	Zip	Business Phone
-----------------	------	-------	-----	----------------

Physical Address	City	State	Zip	FAX Number
------------------	------	-------	-----	------------

Describe (IN DETAIL) the major product sold or service you provide in Alaska	Gross Alaska income from this activity:	Number of employees in Alaska:

Other Address Usage Information

Name of where Rate Notices should be Mailed to: _____

Mailing Address	City	State	Zip	Phone Number
				Fax Number

Name of where Quarterly Report Forms should be mailed to: _____

Mailing Address	City	State	Zip	Phone Number
				Fax Number

TYPES OF EXCLUDED EMPLOYMENT FOR WHICH COVERAGE MAY BE ELECTED

1. Service of corporate officers if the corporation is formed under 23.10.06
Note: All corporate officers must be covered as a group.
2. Service of fishing boat crewmembers if there are fewer than 10 and they are paid by shares.
3. Domestic service in a private home where the wages paid are less than \$1,000 per quarter in the current or the preceding year.
4. Service in selling or distributing newspapers on the street or from house to house.
5. Service by a minister, member of a religious order, or other service performed for a church or association of churches, including elementary and secondary schools, but not including other organizations operated for other than religious purposes.
6. Service performed by an individual in the employ of a son, daughter, or spouse.
Note: If the employer is a partnership, a family relationship must exist between the employee and all partners.
7. Service performed for a parent or legal guardian if the individual was under the age of 21 and a full-time student during eight of the last twelve months and intends to resume full-time student status within the next four months.
8. Service by a child under age 18 for a parent.
9. Service for a school, college, or university by an enrolled student who is regularly attending classes.
10. Elected or appointed public officials under AS 23.20.226 (d) (8) (A).
11. Service in the fields of insurance, real estate, or stock by a salesperson, solicitor, or broker paid by commission and not required to be covered by Federal Unemployment Tax Laws.
12. Service in agricultural labor where the employer either paid less than \$20,000 in wages in current or preceding calendar year or employed fewer than 10 people in at least 20 weeks.
13. Service by a full-time student under the age of 22 in a work-study program taken for credit at a public or nonprofit institution which certified that the service is an integral part of the program.
14. Services performed for a nonprofit or governmental agency by a person receiving work relief or work training where the program is financed in whole or in part by funds from any federal, state, or political subdivision.

**Self-employment is not covered, nor can coverage be elected.
Examples of self-employment include sole proprietors, partners, and members of an LLC**

STATE OF ALASKA / SARAH PALIN, GOVERNOR

Department of Labor &
Workforce Development
Employment Security Division
Kenai Tax Office

11312 Kenai Spur Hwy, Ste 2
Kenai, AK 99611
Phone: 1-907-283-4478
Fax: 1-907-283-5152

November 14, 2007

Robert Porter
Sunburst
P.O. Box 7081
Nikiski, AK 99635

Dear Mr. Porter:

Please find enclosed information on contract labor.

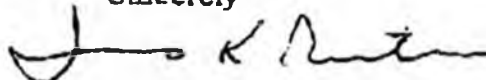
As I understand the procedure, the training is done by Alyeska Pipeline and you as the boat owner are paid by Alyeska and in turn you pay the crew members.

After reading the information on contract labor versus employee employment status, it should be quite clear you have employees, not contract labor. We would appreciate your cooperation in filing the registration form with Department of Labor. Be advised; by not sending in the registration form, could lead to tax audits, interest & penalty fees, and possible fine by Worker's Comp. insurance which could be quit severe.

If you still disagree, may I suggest you contact Bruce Garrison at 1-888-448-3527. Mr. Garrison is the Supervisor, Audit Operations.

I thank you for your time in responding to the letter of November 5, 2007.

Sincerely



James K. Nantau
Field Tax Auditor

Encl. Contract Labor Info

The following table is an example of the factors used to determine employment status comparing the employee versus the independent contractor.

FACTOR	EMPLOYEE	INDEPENDENT CONTRACTOR
CONTINUING RELATIONSHIP	An employee has an ongoing working relationship with you, even if work is performed at frequently recurring, although irregular, intervals.	An independent contractor's relationship with you will have an identifiable end when the job is completed.
EXPENSES	An employee may be eligible for reimbursement of business related expenses.	An independent contractor is not reimbursed for expenses. Estimated expenses are included in the job bid.
FULL-TIME WORK	Full-time hours spent at one job indicate employee status.	An independent contractor spends less than a full-time workweek at each job.
HIRING ASSISTANTS	An employee does not employ assistants or additional staff.	An independent contractor provides all workers required to accomplish the job.
INSTRUCTIONS	An employee must comply with your instructions about when, where and how to work. Your right to issue such instructions is the controlling factor.	An independent contractor is responsible only for accomplishing the job; when, where and how it's accomplished is up to him or her.
INTEGRATION	An employee's services are important to the success or continuation of your business.	The services provided by an independent contractor are often peripheral to the success or continuation of the business.
INVESTMENT	An employee does not have a significant financial business investment in your business.	An independent contractor has a significant financial investment in his or her business.
OFFERS SERVICES TO THE GENERAL PUBLIC	An employee does not offer his or her services to the general public.	An independent contractor solicits work from the general public.
ORDER OR SEQUENCE SET	An employee may be required to perform his or her job in an order or sequence determined by you.	An independent contractor determines the order in which he or she will accomplish a job.
PAYMENTS	An employee is paid by the hour, week, month or year.	An independent contractor is paid by the job or on a straight commission.
PROFIT OR LOSS	An employee can't realize a loss or a profit. He or she receives a set wage.	An independent contractor may realize a profit or loss dependent upon the expenses incurred.

REPORTS	An employee may be required to make periodic written or verbal reports to you regarding the status of ongoing projects.	Because an independent contractor is responsible only for the completed products, he or she doesn't make reports.
RIGHT TO FIRE	You may fire an employee at any time.	An independent contractor may not be fired so long as he or she produces the required results.
RIGHT TO QUIT	An employee has the right to quit at any time without incurring liability.	An independent contractor is responsible for the satisfactory completion of the job contracted for. He or she incurs liability for failure to complete it.
SERVICES RENDERED PERSONALLY	An employee must perform his or her job personally.	An independent contractor may hire any labor needed.
SET HOURS OF WORK	An employee must work set hours as established by you.	An independent contractor may work the hours he or she chooses.
TOOLS AND MATERIALS	You provide an employee with necessary tools, materials and facilities.	An independent contractor provides the tools, materials, and facilities required.
TRAINING	You train an employee to perform the job to your standards.	An independent contractor is responsible for acquiring any training needed.
WORK DONE ON PREMISES	An employee works on your business premises or along a route designated by you.	An independent contractor provides or determines the area where he or she works.
WORKS FOR MORE THAN ONE PERSON OR FIRM	An employee usually works for one person or firm.	An independent contractor works for more than one person or firm at the same time.

Katie Shows

From: Louie Flora
Sent: Wednesday, January 23, 2008 4:10 PM
To: Katie Shows
Subject: FW: Harris bill on Fishing Vessel Program

From: Scavera, Paula D (DOL) [mailto:paula.scavera@alaska.gov]
Sent: Wednesday, January 23, 2008 1:54 PM
To: Louie Flora
Cc: Kramer, William T (DOL)
Subject: FW: Harris bill on Fishing Vessel Program

Here you are. Thank you. Paula

From: Johnston, Robert - ETA
Sent: Mon 11/26/2007 9:01 AM
To: 'Richard Berkowitz'
Cc: McGucken, John - ETA; Hildebrand, Gerard - ETA; ONeal, Pat - ETA
Subject: RE: Harris bill on Fishing Vessel Program

Mr. Berkowitz,

I have reviewed the draft legislation that you provided regarding the Alaska UI coverage issue for fishermen participating in oil spill exercises/drills/response. As drafted, it does not appear to create any issues with Federal unemployment compensation law and as such will not endanger the certification of Alaska's UC law under FUTA.

I cannot give you any opinion as to how the Internal Revenue Service will view these payments for purposes of collecting the Federal Unemployment Tax. However, I do refer you to Unemployment Insurance Program Letter (UIPL) 36-96 which explains in brief treatment of fishermen under FUTA. You can find that UIPL at:

http://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=730#attachment

Please feel free to contact me if you have any further questions.

Bob

Robert Johnston, Supervisor
State Conformity and Compliance Team
U.S. DOL Office of Workforce Security
Division of Legislation
202-693-3005

Any advice provided in this e-mail represents an informal, staff-level opinion. If you would like a formal opinion, please write Cheryl Atkinson, Administrator, Office of Workforce Security, 200 Constitution Ave. NW, Room S-4231, Washington, DC 20210.

-----Original Message-----

1/31/2008

From: Richard Berkowitz [mailto:tinstitute@qwest.net]
Sent: Wednesday, November 21, 2007 8:06 PM
To: Johnston, Robert - ETA
Subject: FW: Harris bill on Fishing Vessel Program

Mr. Johnston,

Per our conversation regarding the Alaska UI coverage issue for fishermen participating in oil spill exercises/drills/response, I am forwarding the draft legislation to you and would welcome any comments you may share. I am particularly interested in the IRS-FUTA issue and whether the exclusion of fishermen by state statute would pass muster with them.

Once again, thanks for your advise and assistance.

Regards,

Rich

Rich Berkowitz
Director, Pacific Coast Operations
Transportation Institute
2200 Alaskan Way, Ste. 110
Seattle, WA 98121
(206) 443-1738 phone
(206) 443-0917 fax
www.trans-inst.org
tinstitute@qwest.net

Subject: Harris bill on Fishing Vessel Program

Attached is a bill drafted by Rep. John Harris on the unemployment issue for participants in the Fishing Vessel Program.

Doug Mertz, meantime, continues to investigate how state law relates to overlying federal law on this issue, and whether federal action as well as state action may be required.

Hon. Kurt Olson
Alaska House of Representatives
State Capitol, Rm. 408
Juneau, Alaska 99801-1182

Re: HB 289, to exempt emergency oil spill response fishermen from unemployment tax

Dear Rep. Olson:

The Prince William Sound Citizens Advisory Council wishes to encourage you to hold early hearings on HB 289. This bill came about after the Alaska Department of Labor recently decided that when fishermen are hired to participate in training for emergency oil spill responses, they and their boat owners are required to pay employment security taxes. These individuals are exempt from the ESD for their normal fishing activities, and a substantial number of boat owners say they will withdraw from the spill response program if they have to take on a large tax paperwork burden for a few days per year of spill drills.

Fishing vessel responders are a vital part of preparedness for oil spills. The fishing vessels that responded during the Exxon Valdez crisis were critical to saving several areas from damage. We believe it would be a great loss if any of the more than three hundred vessels now signed up as responders were to withdraw from the program due to this new interpretation of law.

HB 289 is a simple fix for this problem. In the previous committee hearing, no one spoke against it, and the Department of Labor testified that the amount of taxes involved is so small that a new exemption would not impact the program. We have asked the Alaska Department of Labor to request a formal opinion approving of the changes from the U.S. Department of Labor and the Internal Revenue Service, both of which have the right to review changes in state law for conformity to federal unemployment insurance law, and we anticipate the department will do so shortly.

It is vital that this bill pass this session so that our waterways are not vulnerable during the coming year. We will be happy to provide any more information you need, and again, we hope you hold early hearings on this bill in the Labor & Commerce Committee.

Sincerely,



Regional Citizens' Advisory Council / "Citizens promoting environmentally safe operation of the Alyeska terminal and associated tankers."

In Anchorage: 3709 Spenard Road / Suite 100 / Anchorage, Alaska 99503 / (907) 277-7222 / FAX (907) 277-4523
In Valdez: P.O. Box 3089 / 130 South Meals / Suite 202 / Valdez, Alaska 99686 / (907) 834-5000 / FAX (907) 835-5926

February 5, 2008

MEMBERS

Alaska State Chamber of Commerce

Hon. Kurt Olson
Alaska House of Representatives
State Capitol, Rm. 408
Juneau, Alaska 99801-1182

Alaska Wilderness Recreation & Tourism Association

Subject: Hb 289, to exempt emergency oil spill response fishermen from unemployment tax

Chugach Alaska Corporation

Dear Rep. Olson:

City of Cordova

The Prince William Sound Citizens Advisory Council wishes to encourage you to hold early hearings on HB 289. This bill came about after the Alaska Department of Labor recently decided that when fisherman are hired to participate in training for emergency oil spill responses, they and their boat owners are required to pay employment security taxes. These individuals are exempt from the ESD for their normal fishing activities, and a substantial number of boat owners say they will withdraw from the spill response program if they have to take on a large tax paperwork burden for a few days per year of spill drills.

City of Homer

City of Kodiak

City of Seldovia

City of Seward

City of Valdez

City of Whittier

Fishing vessel responders are a vital part of preparedness for oil spills. The fishing vessels that responded during the Exxon Valdez crisis were critical to saving several areas from damage. We believe it would be a great loss if any of the more than three hundred vessels now signed up as responders were to withdraw from the program due to this new interpretation of law.

Community of Chukchi Bay

Community of Tatishuk

HB 289 is a simple fix for this problem. In the previous committee hearing, no one spoke against it, and the Department of Labor testified that the amount of taxes involved is so small that a new exemption would not impact the program. We have asked the Alaska Department of Labor to request a formal opinion approving of the changes from the U.S. Department of Labor and the Internal Revenue Service, both of which have the right to review changes in state law for conformity to federal unemployment insurance law, and we anticipate the department will do so shortly.

Cordova District Fishermen Union

Kodiak Peninsula Borough

Kodiak Island Borough

It is vital that this bill pass this session so that our waterways are not vulnerable during the coming year. We will be happy to provide any more information you need, and again, we hope you hold early hearings on this bill in the Labor & Commerce Committee.

North Village Alyeska Association

Oil Spill Response Environmental Coalition

Sincerely,

Prince William Sound Aquaculture Corporation

John S. Devens, Ph.D.
Executive Director



Regional Citizens' Advisory Council / "Citizens promoting environmentally safe operation of the Alyeska terminal and associated tankers."

In Anchorage: 3709 Spenard Road / Suite 100 / Anchorage, Alaska 99503 / (907) 277-7222 / FAX (907) 277-4523
In Valdez: P.O. Box 3089 / 130 South Meals / Suite 202 / Valdez, Alaska 99686 / (907) 834-5000 / FAX (907) 835-5926

February 5, 2008

MEMBERS

Alaska State
Chamber of
Commerce

Click Bishop, Commissioner
Alaska Department of Labor
PO Box 111149
Juneau, AK 99811-1149

Alaska Wilderness
Recreation & Tourism
Association

Subject: House Bill 289, exempting fishing crew from employment security tax during spill response training

Chugach Alaska
Corporation

Dear Commissioner:

City of Cordova

The Prince William Sound Regional Citizens Council would like to request that your department seek formal approval from the U.S. Department of Labor and the Internal Revenue Service of a pending change to Alaska statutes that would exempt from the Employment Security Tax crew members of fishing vessels who take part in drills and practices in anticipation of being part of a response to an oil spill.

City of Homer

City of Kodiak

City of Seldovia

City of Seward

City of Valdez

City of Whittier

Community of
Chenege Bay

Community of
Tatitlek

Cordova District
Fishermen United

Kodiak Peninsula
Borough

Kodiak Island
Borough

Kodiak Village Mayors
Association

Oil Spill Region
Environmental
Coalition

Prince William Sound
Aquaculture
Corporation

The exemption bill now before the Legislature, HB 289, came about after your department recently decided that when fisherman are hired to participate in training for emergency oil spill responses, they and their boat owners are required to pay employment security taxes. These individuals are exempt from the ESD for their normal fishing activities, and a substantial number of boat owners say they will withdraw from the spill response program if they have to take on a large tax paperwork burden for a few days per year of spill drills.

Fishing vessel responders are a vital part of preparedness for oil spills. The fishing vessels that responded during the Exxon Valdez crisis were critical to saving several areas from damage. We believe it would be a great loss if any of the more than three hundred vessels now signed up as responders were to withdraw from the program due to this new interpretation of law.

HB 289 is a simple fix for this problem. In the previous committee hearing, no one spoke against it, and the Department of Labor testified that the amount of taxes involved are so small that a new exemption would not impact the program.

There is one problem with which we ask your help, however. Under the Federal Unemployment Tax Act (FUTA), the U.S. Department of Labor must review all changes to state unemployment laws to determine that the changes do not violate FUTA. This has caused difficulties in the past when the state tried to exempt certain categories of employment. Your department has received an informal opinion from U.S. DOL that the anticipated changes would be acceptable, but that was based on the general idea of exempting fishermen in

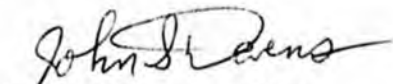
270.105 080205.DOLreFVTax.doc

these circumstances and not on the actual bill. The officials giving that informal opinion cautioned that a formal opinion should be requested, and also noted that the concurrence of the Internal Revenue Service should also be obtained since the IRS has the right to independently review changes in state law. We agree that for the sake of certainty, a formal request should be made without delay so that a clear bill can pass this session. A request to the U.S. Department of Labor for a formal opinion on HB 289 should go to Cheryl Atkinson, Administrator, Office of Workforce Security, 200 Constitution Ave. NW, Room S-4231, Washington, DC 20210. A request for review to the IRS should cite the Department of Labor opinion.

While we do not think it likely that the federal government would invalidate the change proposed by the current version of HB 289, we believe that any change must be certain of federal approval. Therefore we request that your department request formal review and approval from both the U.S. Department of Labor and the Internal Revenue Service so that the bill will have clear sailing for passage this legislative session.

Thanks for your help. Please let us know if we can provide any other information.

Sincerely,



John S. Devens, Ph.D.
Executive Director

cc: Hon. John Harris, Speaker of the House
Hon. Paul Seaton, Member of the House
Hon. Kurt Olson, Member of the House & Chair, House Labor and Commerce
Committee

HB

295

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB295
 () Publish Date: _____

Identifier (file name): HB295-DNR-Rec-02-14-08 Dept. Affected: Natural Resources
 Title: Recorders/UCC Statute Clean Up RDU: Resource Development
 Component: Recorder's Office/UCC
 Sponsor: Representative Lynn
 Requester: HL&C Component Number: 802

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING		0.0	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2008) cost: 0.0

POSITIONS

Full-time	0	0	0	0	0	0	0	0
Part-time	0	0	0	0	0	0	0	0
Temporary	0	0	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

There is no fiscal impact for the Recorder's Office associated with implementation of this legislation.

Prepared by: Vicky Backus, State Recorder
 Division: Support Services - Recorder's Office/UCC Section
 Approved by: Thomas Irwin, Commissioner
Natural Resources

Phone 907-269-8882
 Date/Time 2/14/2008
 Date 2/14/2008

Alaska State Legislature

Chairman
State Affairs Committee

Vice-Chairman
Economic Development, Trade & Tourism
Committee

Member
Judiciary Committee
Joint Armed Services Committee

Finance Subcommittees
Corrections
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety



A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" [RepBobLynnBlog.com](http://BobLynnBlog.com)

Session:
Alaska State Capitol
Juneau, AK 99801-1182

Phone: (907) 465-4931
Fax: (907) 465-4316
Toll Free: (800) 870-4391

Interim:
716 W. 4th Ave., #650
Anchorage, AK 99501-2133

Phone: (907) 269-0205
Fax: (907) 269-0207

Sponsor Statement **HB 295** ***Recorded or Filed Documents***

Advancing technological improvements in the Recorder's office are reaching the point to allow "instant recordation." This Recorder's Office 'clean-up' bill amends three areas in statute to:

- Enable the return of original documents to the presenter at the time of recording
- Ensure all required recording information is located on the document
- Delete reference to providing facilities for outside entities to film or scan daily recordings
- Remove references to court authority over the Recorder's Office
- Update UCC forms referenced in statute to conform with national standards

The bill would also require that documents presented for recording contain the name of the recording district in which the document is to be recorded. Currently this information may be provided verbally or in a cover letter. The proposed change would reduce paperwork and simplify document retention because there would no longer be a need to convert verbal instructions into written instructions or to film and retain a cover letter or additional instructions concerning the recording district.

Alaska State Legislature



Chairman
State Affairs Committee

Vice-Chairman
Economic Development, Trade & Tourism
Committee

Member
Judiciary Committee
Joint Armed Services Committee

Finance Subcommittees
Corrections
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety

A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" RepBobLynnBlog.com

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Alaska State Capitol
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Sectional Analysis **HB 295** *Recorded of Filed Documents*

Section 1: Amends AS 40.17, so that the original documents may be immediately returned to the presenter after recording. In addition, the change allows the Recorder's office to electronically return a document that was electronically submitted, rather than having to return the original document to the person designated on the document. This section also requires that the document contain the name of the recording district in which the document is to be recorded, rather than allowing the recording district to be stated verbally or in a cover letter.

Section 2: Updates AS 40.25.120 (c) by removing a requirement that the recorder furnish facilities for the purpose of photocopying public records for title plant purposes. This requirement was needed at one time due to extreme backlogs in processing documents, which is no longer needed because the recorder's office is able to meet the current demand for information. Updating this section will also remove reference to direction by the court as the recorder's office is no longer under its oversight.

Section 3: Authorizes the department to adopt regulations that specify which forms to be used for certain UCC filings.

Section 4: Allows the department to reject documents submitted for filing that are not on an approved form.

Section 5: Eliminates the use of outdated UCC forms currently pre-printed in their entirety in statute. These older forms require the disclosure of social security numbers which is not a requirement for filing the forms.

Section 6: Allows the department to proceed, prior to the effective date of the remaining sections of the bill, to promulgate regulations that could be in place by the bill's effective date.

Section 7: Allows the preceding Section 6, to occur immediately.

Section 8: Effective date is July 1, 2008.

HB

297

#1
Passed

25-LS0357\E.1
Bullard
2/1/08

AMENDMENT

OFFERED IN THE HOUSE
TO: HB 297

BY REPRESENTATIVE NEUMAN

- 1 Page 3, line 13:
- 2 Delete "and"
- 3
- 4 Page 3, line 14, following "(9)":
- 5 Insert "a person approved by the Department of Health and Social Services to
- 6 administer rabies vaccine to animals;
- 7 (10)"

25-LS0357K
Bullard
2/11/08

CS FOR HOUSE BILL NO. 297(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVE NEUMAN

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the practice of veterinary medicine."**

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

3 *** Section 1. AS 08.98.050(a) is amended to read:**

4 (a) The board shall

5 (1) establish examination requirements for eligible applicants for
6 licensure to practice veterinary medicine;

7 (2) examine, or cause to be examined, eligible applicants for licensure
8 or registration;

9 (3) approve the issuance of licenses and student permits to qualified
10 applicants;

11 (4) establish standards for the practice of veterinary medicine by
12 regulation;

13 (5) conduct disciplinary proceedings in accordance with this chapter;

14 (6) adopt regulations requiring proof of continued competency before a
15 license is renewed;

1 (7) as requested by the department, monitor the standards and
2 availability of veterinary services provided in the state and report its findings to the
3 department;

4 (8) collect, or cause to be collected, data concerning the practice of
5 veterinary technology by veterinary technicians in the state and submit the data to the
6 department for maintenance;

7 (9) establish, by regulation, educational and training requirements for

8 **(A) the issuance of student permits; and**

9 **(B) the delegation of duties by veterinarians licensed under this**
10 chapter to veterinary technicians.

11 * Sec. 2. AS 08.98.070 is amended to read:

12 **Sec. 08.98.070. Duties of the department.** The department shall furnish the
13 board with administrative services, including renting space for holding examinations,
14 printing and mailing licenses **and student permits**, sending notices, before
15 December 1 of each year, that licenses must be renewed, collecting fees and issuing
16 receipts, keeping a current register of licensees, employing secretarial assistants,
17 replying to routine requests for information, printing forms and informational
18 bulletins, typing all matter to be reproduced, maintaining records and completed
19 examinations, and keeping records of receipts and disbursements.

20 * Sec. 3. AS 08.98 is amended by adding a new section to read:

21 **Sec. 08.98.125. Exemptions.** This chapter does not apply to the following:

22 (1) a veterinary medical officer in the military service in the discharge
23 of official duties or as an employee in the federal or state government performing
24 veterinary medical services within the scope of the person's official duties;

25 (2) a person who provides care without remuneration to an injured or
26 ill animal that reasonably appears to the person to be in need of aid;

27 (3) a veterinarian who is licensed in another state or country, or a
28 person whose expertise a veterinarian licensed in this state believes would benefit an
29 animal, and who provides only consultation to a veterinarian licensed in this state;

30 (4) a holder of a student permit under AS 08.98.188;

31 (5) a person who performs euthanasia of an animal in the course and

1 scope of the person's employment while employed by an agency that has a permit
2 issued under AS 08.02.050;

3 (6) a veterinarian licensed and residing in another state who provides
4 assistance, as requested by and under the supervision of a veterinarian licensed in this
5 state, for the purpose of providing skills not otherwise available in this state in
6 conducting research or other practice of veterinary medicine on captive or free-ranging
7 wildlife; however, that assistance is limited to not more than three events in a calendar
8 year for not more than a total of 60 days in the year and may not be on a regular or
9 recurring basis, as defined by the board;

10 (7) a person engaged in the practice of artificial insemination in an
11 animal;

12 (8) a farrier in the performance of the farrier's profession;

13 (9) a person approved by the Department of Health and Social Services
14 to administer rabies vaccine to animals; and

15 (10) a person or employee of a person, who, without compensation,
16 treats only animals belonging to that person, unless ownership is transferred for the
17 purpose of avoiding this chapter or unless the primary purpose of hiring the employee
18 is to avoid application of this chapter.

19 * Sec. 4. AS 08.98.165(a) is amended to read:

20 (a) An applicant is qualified to receive a license as a veterinarian who

21 (1) is a graduate of an accredited veterinary program [SCHOOL] or
22 who has successfully completed the Educational Commission for Foreign Veterinary
23 Graduates certification process;

24 (2) has, within the 60 months preceding application for the license,
25 passed a national examination for veterinarians approved by the board;

26 (3) has passed the written examination of the state on specific Alaska
27 issues of veterinary practice;

28 (4) is in good standing, as defined by the board in regulations; and

29 (5) has paid required fees.

30 * Sec. 5. AS 08.98 is amended by adding a new section to read:

31 **Sec. 08.98.188. Student permit.** (a) The board may approve the issuance of a

1 student permit to a student enrolled in and in good standing at an accredited college of
2 veterinary medicine who has completed three years of study and is participating in an
3 externship program as part of the college's educational curriculum.

4 (b) A student permit is valid for not longer than one year and may not extend
5 beyond the student's graduation.

6 (c) A holder of a student permit is subject to the following limitations:

7 (1) assistance in diagnosis and surgery must be under the immediate
8 supervision of a veterinarian licensed in this state;

9 (2) assistance in treatment must be under the direct or indirect
10 supervision of a veterinarian licensed in this state;

11 (3) not more than one student permit holder at a time may be under the
12 direct supervision of a veterinarian licensed in this state; and

13 (4) a veterinary practice may not retain more than two student permit
14 holders at a time.

15 (d) The board shall establish requirements for student permits by regulation.

16 * Sec. 6. AS 08.98.250(1) is amended to read:

17 (1) "accredited veterinary program [SCHOOL]" means a veterinary
18 college or division of a university or college that offers the degree of Doctor of
19 Veterinary Medicine, or its equivalent that has been approved [AS DETERMINED]
20 by the board [, AND CONFORMS TO THE STANDARDS REQUIRED FOR
21 ACCREDITATION BY THE AMERICAN VETERINARY MEDICAL
22 ASSOCIATION];

23 * Sec. 7. AS 08.98.250(5) is amended to read:

24 (5) "practice of veterinary medicine" means

25 (A) [MEANS FOR COMPENSATION] to

26 (i) diagnose, treat, correct, change, relieve, or prevent
27 animal disease, deformity, defect, injury, or other physical or mental
28 condition, including the prescription or administration of a drug,
29 biologic apparatus, anesthetic, or other therapeutic or diagnostic
30 substance;

31 (ii) use a manual or mechanical procedure for testing

1 for pregnancy or correcting sterility or infertility; or

2 (iii) render advice or recommendation with regard to
3 any matter listed in (i) or (ii) of this subparagraph;

4 (B) [MEANS] to represent, directly or indirectly, publicly or
5 privately, an ability or willingness to do any act in (A) of this paragraph [FOR
6 COMPENSATION];

7 (C) [MEANS] to use a description, title, abbreviation, or letters
8 in a manner or under circumstances tending to induce the belief that the person
9 using it or them is qualified or licensed to do any act in (A) of this paragraph
10 [WHETHER OR NOT FOR COMPENSATION];

11 [(D) DOES NOT INCLUDE, WHETHER OR NOT FOR
12 COMPENSATION,

13 (i) PRACTICES RELATED TO ARTIFICIAL
14 INSEMINATION AND THE USE OF A TITLE, ABBREVIATION,
15 OR LETTERS IN A MANNER WHICH INDUCES THE BELIEF
16 THAT THE PERSON USING THEM IS QUALIFIED TO PERFORM
17 ARTIFICIAL INSEMINATION;

18 (ii) THE PRACTICES OF A FARRIER DONE IN
19 THE PERFORMANCE OF THE FARRIER'S PROFESSION;

20 (iii) STANDARD PRACTICES COMMONLY
21 PERFORMED ON FARM OR DOMESTIC ANIMALS IN THE
22 COURSE OF ROUTINE FARMING OR ANIMAL HUSBANDRY,
23 WHEN PERFORMED BY AN OWNER OR THE OWNER'S
24 EMPLOYEE UNLESS OWNERSHIP OF THE ANIMAL IS
25 TRANSFERRED FOR THE PURPOSE OF AVOIDING
26 APPLICATION OF THIS CHAPTER OR THE PRIMARY PURPOSE
27 OF HIRING THE EMPLOYEE IS TO AVOID APPLICATION OF
28 THIS CHAPTER;]

29 * Sec. 8. AS 08.98.250 is amended by adding new paragraphs to read:

30 (7) "consultation" means advice or assistance provided in person,
31 telephonically, electronically, or by any other method of communication from a

- 1 veterinarian or other person whose expertise, in the opinion of the veterinarian, would
- 2 benefit the animal;
- 3 (8) "direct supervision" means the supervising veterinarian is on the
- 4 premises where the animal is being treated and is quickly and easily available;
- 5 (9) "immediate supervision" means the supervising veterinarian is in
- 6 the immediate area and within audible and visual range of the animal patient and the
- 7 person treating the patient;
- 8 (10) "indirect supervision" means the supervising veterinarian does not
- 9 need to be on the premises but has given either written or oral instructions for the
- 10 treatment of the animal;
- 11 (11) "veterinary practice" means a business that provides veterinary
- 12 services.

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 297
 () Publish Date: _____

Identifier (file name): HB297-CED-OL-01-22-07 Dept. Affected: DCCED
 Title Practice of Veterinary Medicine RDU Corp, Bus & Prof Licensing (117)
 Component Corp, Bus & Prof Licensing
 Sponsor Neuman
 Requester House Labor & Commerce Component Number 2360

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING		0.0	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2008) cost: _____

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

This legislation amends AS 08.98 Veterinarians to provide for student externships and to clarify the definition of practicing veterinary medicine. It is not anticipated to impact the operations of the division. Licensing programs are required to cover costs with licensing fees under AS 08.01.065.

Prepared by: Chris Wyatt, Administrative Officer
 Division Corporations, Business, and Professional Licensing
 Approved by: Emil R. Notti, Commissioner
Commerce, Community, and Economic Development

Phone (907) 465-2572
 Date/Time 1/22/08 5:16 PM
 Date 1/22/2007

Passed

1

25-LS0357E.1
Bullard
2/1/08

AMENDMENT

OFFERED IN THE HOUSE
TO: HB 297

BY REPRESENTATIVE NEUMAN

1 Page 3, line 13:

2 Delete "and"

3

4 Page 3, line 14, following "(9)":

5 Insert "a person approved by the Department of Health and Social Services to
6 administer rabies vaccine to animals;

7 (10)"

Alaska State Legislature

Session Address:

Alaska State Capitol
Juneau, AK 99801
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1-800-505-2678
Fax: (907) 465-4822

**Interim Address:**

600 E. Railroad Avenue
Wasilla, AK 99654
Phone: (907) 376-2679
Fax: (907) 376-4745

Representative.Mark.Neuman@legis.state.ak.us

Representative Mark A. Neuman

District 15

January 25, 2008

Representative Kurt Olson, Chair
House Labor & Commerce Committee
State Capitol, Room 408
Juneau, Alaska 99801

Dear Representative Olson:

SUBJECT: HB 297 PRACTICE OF VETERINARY MEDICINE

Attached is a committee package for House Bill 297. I would appreciate it if you could schedule this legislation to be heard at your earliest convenience.

Included are the following:

- * Most recent bill version
- * Sponsor statement
- * Section analysis prepared by Legislative Legal
- * List of names of witnesses
- * Letters of support

HB 297 is supported by the DCCED/Division of Corporations, Business and Professional Licensing and the Alaska Board of Veterinary Examiners. Please feel free to call my office at 465-2679 if you require more information or have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Mark Neuman".

Representative Mark Neuman

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 297
 () Publish Date: _____

Identifier (file name): HB297-CED-JL-01-22-07 Dept. Affected: DCCED
 Title: Practice of Veterinary Medicine RDU: Corp. Bus & Prof Licensing (117)
 Component: Corp. Bus & Prof Licensing
 Sponsor: Neuman
 Requester: House Labor & Commerce Component Number: 2360

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
Personal Services								
Travel								
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Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING		0.0	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES ()								
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Other Interagency Receipts								
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POSITIONS

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Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

This legislation amends AS 08.98 Veterinarians to provide for student externships and to clarify the definition of practicing veterinary medicine. It is not anticipated to impact the operations of the division. Licensing programs are required to cover costs with licensing fees under AS 08.01.065.

Prepared by: Chris Wyatt, Administrative Officer
 Division: Corporations, Business, and Professional Licensing
 Approved by: Emil R. Notti, Commissioner
Commerce, Community, and Economic Development

Phone (907) 465-2572
 Date/Time 1/22/08 5:16 PM
 Date 1/22/2007

Alaska State Legislature

Session Address:

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**Interim Address:**

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Wasilla, AK 99654
Phone: (907) 376-2679
Fax: (907) 376-4745

Representative.Mark.Neuman@legis.state.ak.us

Representative Mark A. Neuman

District 15

SPONSOR STATEMENT – HB 297

An Act relating to the practice of veterinary medicine

Due to changes in veterinary medicine over the past few years, updates are now required to align Alaska statutes with current standards of veterinary practice. The statutes governing the practice of veterinary medicine were last updated in 1998; consequently, the Board of Veterinary Examiners and the Department of Commerce have recommended modernization of the statutes.

HB 297 will amend the licensing statutes to allow fourth year veterinary students to work in Alaska under the supervision of an Alaska licensed veterinarian. Currently, there is no provision in Alaska statutes that would allow a student enrolled in an accredited college to experience the practice of veterinary medicine in Alaska. Veterinary programs routinely require participation in an externship program for students in their fourth year prior to graduation. There are no veterinary schools in Alaska; hence, no incentive to attract new veterinarians to the state. Providing for a student permit creates a provision for fourth year veterinary students to gain supervised practice in Alaska, receive credit for the work experience, and possibly return to Alaska after graduation to practice as fully licensed veterinarians. HB 297 will enhance and maintain the high standard of veterinary care provided in Alaska with the potential to attract new practitioners to the State.

HB 297 will provide protection to a Good Samaritan who provides emergency care without remuneration to an injured or ill animal as well as exempting an owner who is administering care to his/her own animals.

Introduced through a coordinated effort between the Alaska Board of Veterinary Medical Examiners and the Alaska Division of Corporations, Business and Professional Licensing, these amendments will enhance and maintain the high standard of veterinary care provided in Alaska while attracting new veterinary practitioners to the State.

Contact: Beth Schneider
(907) 465-2679
Version 25-LS0357E
January 15, 2008

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

January 24, 2008

SUBJECT: HB 297 - Sectional summary (Work Order No. 25-LS0357\E)

TO: Representative Mark Neuman
Attn: Beth Schneider

FROM: Alpheus Bullard *TLAB*
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. Adds the issuance of student permits to the powers and duties of the Board of Veterinary Examiners.

Section 2. Adds the mailing of student permits to the duties of the Department of Commerce, Community, and Economic Development.

Section 3. Exempts certain persons from the provisions of AS 08.98. (Veterinarians).

Section 4. Amends the statutory qualifications for licensure as a veterinarian.

Section 5. Allows the board to approve the issuance of student permits to certain qualified applicants and provides limitations for the holders of these permits.

Section 6. Replaces the definition of "accredited veterinary school" with a definition for "accredited veterinary program."

Section 7. Amends the definition of the "practice of veterinary medicine."

Section 8. Adds definitions.

If you have any questions, or if I can be of further assistance, please do not hesitate to contact me.

TLAB lmb
08-002 lmb

**Testifying or Speaking
In support of HB 297**

Dr. Steve Torrence, DVM – Chairperson
4433 Windfall Avenue
Juneau, Alaska 99801
Phone: 789-7551 (work)

Dr. Timothy L. Bowser, DVM
PO Box 1439
Soldotna, Alaska 99669-1439
Phone: 260-7851 (work)

Jennifer Strickler, Chief
DCCED/Division of Corporations,
Business and Professional Licensing
Phone: (907) 465-2144
Fax: (907) 465-2974
Email: jenny.strickler@alaska.gov

Robert F Gerlach VMD
Alaska State Veterinarian
5251 Hinkle Road
Anchorage, AK 99507
Office (907) 575-8214
Bob.gerlach@alaska.gov

Steven M. Torrence D.V.M.
4433 Windfall Ave
Juneau, Alaska 99801
907 789-7551
907 209-4116
smtdvm@hotmail.com

Rep. Mark Neuman
Vice Chair, House Labor and Commerce Committee
State Capital Room 432
Juneau, Alaska 99801

Dear Representative Neuman,

I am happy to support House Bill 297. This bill is the work not only of the present members of the Board of Veterinary Examiners (The Board) and the Department of Commerce but also by previous board members who started the work resulting in this bill. It is the goal of the Board to modernize the statutes regarding the practice of veterinary medicine in the state of Alaska. We considered recommendations and examples of other state practice acts through our membership in the American Association of Veterinary State Boards as well as the special needs and situations that arise with veterinary practice here in Alaska.

There have been many changes in veterinary medicine since the Alaska veterinary statutes were first written. Antibiotics have come into more common use and the dangers of antibiotic sensitivity and the impacts upon animal and human public health have become well known. High speed travel has resulted in rapid transport and dissemination of emerging and foreign infectious diseases for which veterinarians act as sentinels. Modern electronics and the internet have changed and improved the way medical professionals consult, diagnose and treat patients.

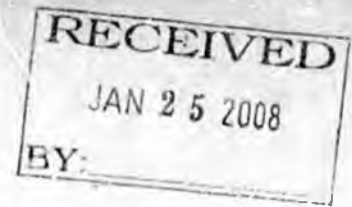
Besides providing medical care to pets and farm animals, veterinarians are involved in a diverse range of practice, including, public health, wildlife and marine mammal medicine, research, teaching, and regulatory issues. House Bill 297 will help update the Veterinary Practice Act to reflect advances in medicine, and standards of care, as well as changes in the demographics within the profession.

I believe that the changes House Bill 297 will bring about are positive for citizens and animal welfare. I appreciate any help you can provide in the passage of this bill. Please contact me should you have any questions.

Respectfully


Steven M. Torrence D.V. M.

Chair, Alaska Board of Veterinary Examiners



Cynthia A. Trout, DVM
5131 Manytell Avenue
Anchorage, Alaska 99516

January 21, 2008

I am writing to give my support to House Bill 297. As a member of the Alaska State Board of Veterinary Examiners, it is my goal to see that veterinary medicine is practiced to the highest standard in Alaska. In the Board's review of Alaska's Veterinary Practice Act (Act), we found many items that needed to be updated and/or changed. As one can imagine with the many advances in medicine every day, the Act needs periodic revision to keep up with the times.

One important change is having the ability to work with veterinary specialists from other states to help with wildlife studies conducted by private and government institutions. These specialists bring valuable expertise that Alaska needs to assist with many protected species, as well as helping care for stranded and injured marine life that the Alaska SeaLife Center handles each year. The exemption that allows out-of-state veterinary specialists easier access to our state will help insure that these programs are successful.

A second change that is needed to the Act has to do with the regulation of student permits and externships, which allow veterinary students to become acquainted with Alaska and the practice of veterinary medicine here. Because we are a state without a veterinary school, such a program is necessary to help recruit veterinarians in the future, while also regulating their activities here.

The Board of Veterinary Examiners has put considerable time and effort into the proposed revisions to the Act. These changes are responsive to the current needs of Alaska, and will help keep our standard of practice of veterinary medicine in Alaska current and progressive. I fully support House Bill 297.

Sincerely,

A handwritten signature in cursive script that reads "Cynthia A. Trout DVM".

Cynthia A. Trout, DVM

To: Rep_Mark_Neuman@legis.state.ak.us

Subject: RE: House Bill 297

From: Gerlach, Robert F (DEC) [mailto:bob.gerlach@alaska.gov]

Sent: Thursday, January 24, 2008 6:23 PM

To: Sue Gullufsen

Cc: Beth Schneider

Subject: House Bill 297

I am writing this email not only as the state veterinarian responsible for maintaining the Alaska Animal Health Regulations, but also as a licensed veterinary practitioner.

Because of the unique and diverse training, veterinarians play key roles in food production and safety and the maintenance of both animal and public health. Nationally we are dealing with a shortage of veterinarians and in Alaska the due to the vast extent of the land and dispersion of the population the effects are more obvious. In Washington DC the US Legislature is trying to address this problem by passing the National Veterinary Service Act. It is time that Alaska update the Veterinary Licensing Regulations to help support the practice of quality veterinary medicine and to come into compliance with most other states and the American Veterinary Medical Association National Model Veterinary Practice Act. The Alaska State Veterinary Practice Act (House Bill 297) that is being presented to the state legislature will not only update the regulations but also help to address the need for more veterinary support to the residents and animal resources of the state. I strongly encourage the passage of House Bill 297.

The amendments to the Alaska State Veterinary Practice Act will allow for improved care of domestic animals, both pets and livestock, as well as wildlife through an increased availability of professional consultations from veterinary specialists. Pet populations are growing and animals are becoming an integral part of our lives, giving emotional support and companionship. Animals are not only important for companionship and recreational purposes (mushing and skijoring) but also as professional working partners (police and military working dogs, guide dogs, search and rescue, bomb and drug detection). This bill will allow veterinary instructors and specialists to set up training opportunities for Alaskan veterinarians and provide treatment clinics to our animals without the burden of applying and paying for temporary licensing.

One of our most important resources in the state is the wildlife. It is valued by tourist, recreational and subsistence hunters, and recreational, subsistence, and commercial fisherman. The management of wildlife populations and research programs involving certain threatened and endangered species (Stellar Eiders, marine mammals) in Alaska is critical. Since there are even fewer expert wildlife veterinarians available in the United States this act will allow greater access and training for resident veterinarians and researchers.

House Bill 297 will exempt student interns state and federal veterinarians from requiring a veterinary license to perform veterinary medical services either under the supervision of a licensed veterinarian or within the scope their official duties. This will not only help to provide support to private practitioners but will also provide opportunities to veterinary students and interns to experience the challenges of practice in Alaska. This experience can provide a unique and valuable opportunity for veterinary students and interns as well as attract future veterinarians to the state. Veterinarians employed by the military and federal and state agencies ultimately increase the quality and range of veterinary services available to all Alaskans. These special situations have long been recognized in the Veterinary Practice Acts of most other states and our Board of Veterinary Medical Examiners has been working with the staff at the Alaska Division of Occupational Licensing to develop these proposed changes which will bring Alaska's statutes up to date and able to recognize these special needs.

I commend Representative Neuman and will be encouraging my legislators to vote in support of this bill and move it towards speedy passage during the upcoming legislative session.

Thank you,
Bob Gerlach

Robert F Gerlach VMD
Alaska State Veterinarian
5251 Hinkle Road
Anchorage, AK 99507
Office: (907) 375-8214
FAX: (907) 929-7335
Bob.gerlach@alaska.gov

From: Dr. Dave Hunt [sitkavet@alaska.com]
Sent: Wednesday, January 23, 2008 4:17 PM
To: Rep. Mark Neuman; 'Donohue, Brenda A (CED)'
Subject: Support for house bill 297

David J. Hunt DVM
209 Jarvis street
Sitka AK 99835
907-747-7387
sitkavet@alaska.com

I am writing to you to support House Bill 297. I have practiced veterinary medicine in the state of Alaska for over 12 years and have served on the board of veterinary examiners for 6 years. During this time period the practice of veterinary medicine has changed dramatically and yet our practice act has not been changed to reflect this. For this reason, my fellow board members and I have worked many hours to draft changes to our practice act to keep up with the advances in veterinary medicine.

House Bill 297 allows certain exemptions for the practice of veterinary medicine that is crucial to the study of avian influenza and other diseases that can spread throughout the world. By giving exemptions to federal veterinarians to work on wildlife it will allow veterinarians instead of biologist to surgically implant tracking devices to study migrations of birds and other wildlife. Without this bill biologist that are not qualified to do these surgeries have been doing them because of our current practice act.

House Bill 297 will also help students work with veterinarians in a practice environment. It will allow a veterinarian to supervise students and in doing so ensure that Alaska will have veterinarians for future generations. Our current practice act does not address this issue, leaving students of accredited veterinary schools to pursue externships in other states.

The veterinary board asks your support for this important bill. If you have any questions regarding this bill please feel free to contact me.

David J Hunt DVM
Sitka Animal Hospital

From: Pam Tuomi [pamt@alaskasealife.org]
Sent: Monday, January 14, 2008 7:53 PM
To: Sue Gullfsen
Cc: Beth Schneider
Subject: HB297
Follow Up Flag: Follow up
Flag Status: Completed

As a 38 year Alaskan resident, veterinary small animal clinic owner and practicing veterinarian active in marine wildlife research, I strongly encourage the passage of House Bill 297.

These amendments to the Alaska State Veterinary Practice Act have been long overdue and will allow for improved care of our animal patients through an increased availability of professional consultations in a state with few resident specialists. Our wildlife management and research programs will have freer access to the small pool of expert wildlife veterinarians available in the United States and monies and time previously spent in obtaining "temporary" licenses for veterinarians supporting wildlife research could be redirected towards needed sample collection and analysis costs. Recognition of the special position of veterinary students and of veterinarians employed by the military and Federal and state agencies will avoid confusion and ultimately increase the quality and range of veterinary services available to all Alaskans. These special situations have long been recognized in the Veterinary Practice Acts of most other states and our Board of Veterinary Medical Examiners has been working with the staff at the Alaska Division of Occupational Licensing to develop these proposed changes to bring Alaska's statutes up to date and able to recognize these special needs.

I commend Representative Neuman and will be encouraging my legislators to vote in support of this bill and move it towards speedy passage during the upcoming legislative session.

Pam Tuomi, D.V.M.
Senior Veterinarian
Alaska SeaLife Center
P.O. Box 1329
Seward, AK 99664

From: DocBob [docbob@acsalaska.net]
Sent: Tuesday, January 15, 2008 10:55 PM
To: Beth Schneider; Sen. Lesil McGuire; Rep. Craig Johnson; Sue Gullufsen
Subject: House Bill 297
Follow Up Flag: Follow up
Flag Status: Red

Dear Representative Neuman, Senator McGuire, Representative Johnson, and Sue Gullufsen,:

As a 31 year Alaskan resident, research parasitologist, and adjunct professor of biology at Wayland Baptist University, I strongly encourage the passage of House Bill 297.

I have had the opportunity to work with the veterinary community in Alaska, California, and Florida over the past 50 years on a wide variety of research projects was a senior fishery biologist for the Alaska Department of Fish and Game, and have consulted with the staff at the Alaska Sea Life Center.

These amendments to the Alaska State Veterinary Practice Act have been long overdue and will allow for improved care of our animal patients through an increased availability of professional consultations in a state with few resident specialists. Our wildlife management and research programs will have freer access to the small pool of expert wildlife veterinarians available in the United States, and monies and time previously spent in obtaining temporary licenses for veterinarians supporting wildlife research could be redirected towards needed sample collection and analysis costs. Recognition of the special position of veterinary students and of veterinarians employed by the military and Federal and state agencies will avoid confusion and ultimately increase the quality and range of veterinary services available to all Alaskans. These special situations have long been recognized in the Veterinary Practice Acts of most other states and our Board of Veterinary Medical Examiners has been working with the staff at the Alaska Division of Occupational Licensing to develop these proposed changes which will bring Alaska's statutes up to date and able to recognize these special needs.

I commend Representative Mark Neuman for his vision in this important matter and strongly encourage my legislators to vote in support of this bill and move it towards speedy passage during the upcoming legislative session.

Most respectfully,

Robert O. Baker, Ph.D., Cdr. USN (ret)
840 Breakwater Cir.
Anchorage, AK 99515-3632

From: Sue Gullufsen
Sent: Monday, January 21, 2008 10:51 AM
To: Rep. Mark Neuman
Subject: FW: HB0297

From: Karpovich, Shawna A (DFG) [mailto:shawna.karpovich@alaska.gov]
Sent: Tuesday, January 15, 2008 8:48 AM
To: Sue Gullufsen
Subject: HB0297

As a wildlife biologist, I completely agree with what Dr. Tuomi of the Alaska Sea Life Center wrote:

"These amendments to the Alaska State Veterinary Practice Act have been long overdue and will allow for improved care of our animal patients through an increased availability of professional consultations in a state with few resident specialists. Our wildlife management and research programs will have freer access to the small pool of expert wildlife veterinarian available in the United States, and monies and time previously spent in obtaining temporary licenses for veterinarians supporting wildlife research could be redirected towards needed sample collection and analysis costs. Recognition of the special position of veterinary students and of veterinarians employed by the military and Federal and state agencies will avoid confusion and ultimately increase the quality and range of veterinary services available to all Alaskans.

These special situations have long been recognized in the Veterinary Practice Acts of most other states and our Board of Veterinary Medical Examiners has been working with the staff at the Alaska Division of Occupational Licensing to develop these proposed changes which will bring Alaska's statutes up to date and able to recognize these special needs.

I commend Representative Neuman and will be encouraging my legislators to vote in support of this bill and move it towards speedy passage during the upcoming legislative session."

Thanks,

Shawna Karpovich
Alaska Department of Fish & Game
Wildlife Conservation
Harbor Seal Program
1300 College Rd.
Fairbanks, AK 99701

ph: (907)459-7239
fax: (907)459-7332

Steven M. Torrence D.V.M.
4433 Windfall Ave
Juneau, Alaska 99801
907 789-7551
907 209-4116
smtdvm@hotmail.com

Rep. Kurt Olson
Chair, House Labor and Commerce Committee
State Capital Room 406
Juneau, Alaska 99801

Dear Representative Olson,

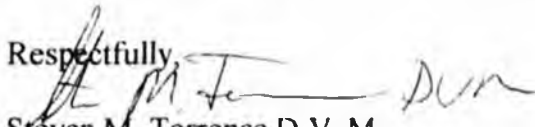
I am happy to support House Bill 297. This bill is the work not only of the present members of the Board of Veterinary Examiners (The Board) and the Department of Commerce but also by previous board members who started the work resulting in this bill. It is the goal of the Board to modernize the statutes regarding the practice of veterinary medicine in the state of Alaska. We considered recommendations and examples of other state practice acts through our membership in the American Association of Veterinary State Boards as well as the special needs and situations that arise with veterinary practice here in Alaska.

There have been many changes in veterinary medicine since the Alaska veterinary statutes were first written. Antibiotics have come into more common use and the dangers of antibiotic sensitivity and the impacts upon animal and human public health have become well known. High speed travel has resulted in rapid transport and dissemination of emerging and foreign infectious diseases for which veterinarians act as sentinels. Modern electronics and the internet have changed and improved the way medical professionals consult, diagnose and treat patients.

Besides providing medical care to pets and farm animals, veterinarians are involved in a diverse range of practice, including; public health, wildlife and marine mammal medicine, research, teaching, and regulatory issues. House Bill 297 will help update the Veterinary Practice Act to reflect advances in medicine, and standards of care, as well as changes in the demographics within the profession.

I believe that the changes House Bill 297 will bring about are positive for citizens and animal welfare. I appreciate any help you can provide in the passage of this bill. Please contact me should you have any questions.

Respectfully,


Steven M. Torrence D.V.M.

Chair, Alaska Board of Veterinary Examiners

HB

303

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: HB303-LAW-CIV-01-28-08
 Bill Version: HB303
 () Publish Date: _____

Identifier (file name): _____ Dept. Affected: LAW
 Title An Act relating to marine and motorized recreational RDU CIVIL
products. Component COMMERCIAL & FAIR BUSINESS
 Sponsor REPRESENTATIVE(s) NEUMAN
 Requester HOUSE L&C Component Number _____

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING		0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES								
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2008) cost: 0.0

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: Robert Meiners, Administrative Services Manager
 Division: Administrative Services Division
 Approved by: Talis Colberg, Attorney General
Department of Law

Phone 907-465-5427
 Date/Time 1/28/08 4:10 PM
 Date 1/28/2008

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

BILL NO. HB303

ANALYSIS CONTINUATION

HB 303 adds a section to Title 45 that will govern the relationship between dealers and manufacturers or distributors of marine and motorized recreational products. The bill contains significant restrictions on manufacturers and distributors from freely negotiating agreements with dealers in Alaska. These include prohibitions on termination and non-renewal of agreements, requirements to change or transfer an agreement, and various requirements that restrict a manufacturer or distributor from changing a dealer's area of responsibility, or adding a new dealer to an area occupied by an existing dealer. The bill requires manufacturers and distributors to comply with various shipping requests made by the dealer, to deliver products within a certain time, to allow the dealer to select the shipping method, and to take responsibility for product damage prior to acceptance of the product by the dealer. There are several repurchasing provisions in the bill that require a manufacturer or distributor to repurchase a dealer's inventory if a dealer discontinues in the business or decides to stop selling a particular product. The bill contains provisions that require manufacturers and distributors to comply with advertised warranty provisions, and supply necessary repair parts in a timely manner. Dealers must have factory trained technicians to perform warranty service. The bill limits a dealer's liability for money owed to a manufacturer or distributor as the result of a dealer audit unless the audit is conducted within two years, or if the dealer failed to retain parts for more than three months. Finally, the bill adds civil and criminal penalties for failure to comply with its terms, makes a violation of the statute an unfair trade practice under AS 45.50.471, and exempts conduct under the bill from Alaska's antitrust laws.

There are significant legal issues with this bill, including direct conflicts with federal law, that would necessitate research and further legal analysis. However, any resulting complaints made to the Department of Law as a result of this bill are anticipated to be minimal, and absorbed within existing resources.

Alaska State Legislature



Session Address:
Alaska State Capitol
Juneau, AK 99801
Phone: (907) 465-2679
1-800-505-2678
Fax: (907) 465-4822

Interim Address:
600 E. Railroad Avenue
Wasilla, AK 99654
Phone: (907) 376-2679
Fax: (907) 376-4745
Representative.Mark.Neuman@legis.state.ak.us

Representative Mark A. Neuman

District 15

MEMORANDUM

TO: Representative Kurt Olson

FROM: Representative Mark Neuman

DATE: January 22, 2008

SUBJECT: Hearing Request for HB 303

Attached is a committee package for House Bill 303, "An Act relating to marine products and motorized recreational products; and providing for an effective date." The package includes the current version of the bill, sponsor statement, and backup materials.

I would appreciate you scheduling this legislation so that it may be presented to the Labor and Commerce Committee at the earliest possible date. Please feel free to contact me, or my aide Rex Shattuck, with any questions.

Thank you for your consideration.

A handwritten signature in black ink, appearing to read "Mark Neuman".

Alaska State Legislature

Session Address:

Alaska State Capitol
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1-800-505-2678
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Fax: (907) 376-4745

Representative.Mark.Neuman@legis.state.ak.us

Representative Mark A. Neuman

District 15

House Bill 303

“An Act relating to marine products and motorized recreational products”

Sponsor Statement

HB303 will benefit Alaskan consumers and Alaskan marine and powersports dealerships by creating a more favorable business environment in which to buy or service boats, 4 wheelers, snow machines, and outboard motors.

Alaska is unique in that consumers utilize these products not only for recreational purposes but many rely on them as their primary method of transportation. Whatever the product is used for; commercial, recreational, or transportation, when warranty issues arise the consequence can be significant.

Throughout Alaska and especially in the bush, the costs associated with remedies to warranty issues through services provided by dealers are extremely burdensome to both consumers and dealers.

HB303 will correct long standing inequities and create a more favorable business environment to benefit all Alaskans.

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

December 31, 2007

SUBJECT: Sectional summary of bill draft relating to marine products and motorized recreational products (Work Order No. 25-LS1183\A)

TO: Representative Mark Neuman
Attn: Rex Shattuck

FROM:  Theresa Bannister
Legislative Counsel

You have requested a sectional summary of the above-described bill draft. As a preliminary matter, note that a sectional summary of a bill draft should not be considered an authoritative interpretation of the bill draft and the bill draft itself is the best statement of its contents.

Section 1. Adds sec. 45.25.920 to resolve conflicting provisions in AS 45.25 and AS 45.27. Resolves them in favor of the AS 45.27 provisions.

Section 2. Adds AS 45.27, a new chapter relating to marine products and motorized recreational products.

Sec. 45.27.010. Prohibits a manufacturer or distributor from coercing a dealer to enter into an agreement.

Sec. 45.27.020. Prohibits a manufacturer or distributor from threatening to cancel an agreement without just cause. Prohibits a manufacturer or distributor from cancelling or refusing to renew an agreement without just cause and advance notice unless based on a failure or fraudulent activity of the dealer as described in the section.

Sec. 45.27.030. Prohibits a manufacturer or distributor from unreasonably withholding consent to the sale or other transfer of an agreement if the transferee satisfies certain conditions. Requires a manufacturer or distributor to respond to a request for consent within a certain time, and failure to respond as required is considered consent.

Sec. 45.27.040. Prohibits a manufacturer or distributor from changing an agreement without giving notice for a certain time before the change.

Sec. 45.27.100. Indicates that, unless the agreement establishes a smaller area of responsibility, a dealer's area of responsibility may consist of a geographical area designated by zip code, municipality, or mileage radius in the agreement and may be established by the uniform procedures adopted under (c) of this section. Establishes what

Representative Mark Neuman

December 31, 2007

Page 2

the area of responsibility consists of if not established under (c) of this section or if the area of responsibility established by the manufacturer or distributor is rejected by the dealer. Requires a manufacturer or distributor to adopt uniform procedures to establish an area of responsibility.

Sec. 45.27.110. Requires a manufacturer or distributor to give a dealer notice for a certain period of time before changing an area of responsibility. Makes an exception to this requirement.

Sec. 45.27.120. Prohibits a manufacturer or distributor from entering into an agreement adding a dealer within an existing dealer's area of responsibility without giving notice for a certain period of time to all potentially affected dealers in the area of responsibility. Establishes the contents of the notice. Gives potentially affected dealers a certain time to provide information and comments before the manufacturer or distributor makes a final decision.

Sec. 45.27.200. Prohibits a manufacturer or distributor from selling or shipping a product to a dealer before the dealer signs an agreement that complies with AS 45.27.

Sec. 45.27.210. Prohibits a manufacturer or distributor from coercing a dealer to order or accept delivery of a product not voluntarily ordered or certain other products with special features.

Sec. 45.27.220. Prohibits a manufacturer or distributor, without just cause, from refusing to deliver or ship within a certain time to a dealer a product publicly advertised by the manufacturer or distributor as available for immediate delivery.

Sec. 45.27.230. Requires a manufacturer or distributor to continue, for a specified time after the termination or nonrenewal of an agreement, to sell to a dealer parts for the products that the dealer sold before the termination or nonrenewal.

Sec. 45.27.240. Prohibits a manufacturer or distributor from delaying, refusing, or failing to deliver reasonable quantities of products unless caused by an act beyond the control of the manufacturer, the distributor, or a related person.

Sec. 45.27.250. Prohibits a manufacturer or distributor from refusing to allow a dealer to select the method and carrier for product delivery, unless the agreement provides otherwise.

Sec. 45.27.260. Makes a manufacturer or distributor solely responsible for product damage occurring before delivery to a carrier. States that a dealer is not responsible for damage to a new product occurring while in a carrier's possession, unless the dealer selected the method of transportation and the carrier. States that a dealer is solely responsible for damage to a new product occurring after the dealer accepts the product from the carrier and before delivery to the ultimate purchaser, unless the damage is caused by a latent or hidden defect or was not reasonably observable when accepted.

Allows a dealer to refuse to accept a damaged product if the dealer gives notice within a certain time, and requires a manufacturer or distributor to credit the dealer within a specified time for the product cost, freight, and interest charged.

Sec. 45.27.300. Requires a manufacturer or distributor to repurchase certain products and product parts from a dealer's inventory when a dealer stops being a dealer and gives certain advance notice to the manufacturer or distributor. Requires a manufacturer or distributor to repurchase from a dealer certain products and product parts if a dealer stops selling a product and gives certain advance notice to the manufacturer or distributor.

Sec. 45.27.310. Requires a manufacturer or distributor to make the repurchases within a certain time.

Sec. 45.27.320. Allows a dealer to retain some discontinued products and product parts for certain purposes if the dealer stops being a dealer or selling a particular product.

Sec. 45.27.330. Requires a manufacturer or distributor to pay the dealer interest if the manufacturer or distributor fails, without just cause, to make the required repurchases.

Sec. 45.27.340. Bases the repurchase amount on the dealer's landed cost at the dealer's facility. Requires adjustment of the landed cost for certain rebates and credits.

Sec. 45.27.350. Places the responsibility for transportation and storage costs for repurchased products on the manufacturer or distributor. Allows a manufacturer or distributor to select the method and carrier to transport a repurchased product.

Sec. 45.27.400. Requires a manufacturer to provide to a product's ultimate purchaser from a dealer the manufacturer's standard warranty, if any, in effect at the time of delivery to the dealer.

Sec. 45.27.410. Requires a manufacturer or distributor of a defective product to pay a dealer to complete factory-recommended warranty repairs, solutions, and procedures to cure factory warranty problems. Requires a manufacturer or distributor to provide, within a specified time, the original factory parts required to cure a defective product. Establishes the dealer's options when the manufacturer or distributor is unable to supply the needed warranty service parts as required.

Sec. 45.27.420. Prohibits a dealer from making a warranty representation that is not in the manufacturer's written warranty. Requires a dealer to deliver operation and maintenance manuals to an ultimate purchaser and to make the warranty known to the ultimate purchaser.

Sec. 45.27.430. Requires a dealer to provide timely warranty service in accordance with the manufacturer's warranty. Requires a dealer to make warranty reimbursement claims in the manner required by the manufacturer.

Sec. 45.27.440. Directs a manufacturer or distributor to use the bases established in this section to reimburse a dealer for approved warranty service performed by the dealer. Sets out the bases.

Sec. 45.27.450. Requires a manufacturer or distributor to pay a dealer's shipping costs and a handling fee for shipping a part that is replaced under a warranty and that the dealer returns for testing, analysis, or inspection at the manufacturer's or distributor's request. Requires the return request to be made in writing and within a certain time.

Sec. 45.27.460. Requires a manufacturer or distributor to pay a warranty claim within a certain time. If not so paid, the claim is considered accepted and interest must be paid on the claim.

Sec. 45.27.470. Allows a manufacturer or distributor of a marine product to enter into a warranty service agreement with a dealer of a boat package without violating the area of responsibility of another dealer with an agreement to sell the marine motor brand that is part of the package.

Sec. 45.27.480. Requires a dealer to use a factory-certified or factory-trained technician to perform warranty service work if the certification or training is readily available.

Sec. 45.27.490. Prohibits a manufacturer from restricting the nature or extent of product parts provided or labor performed by a dealer if the restriction impairs the dealer's ability to satisfy the manufacturer's warranty.

Sec. 45.27.500. Requires a manufacturer or distributor to issue a notice of disapproval to a dealer within a certain time after disapproving a claim. Requires the notice to contain specific reasons for the disapproval.

Sec. 45.27.600. Provides that a dealer is not liable to a manufacturer or distributor for money revealed by an audit if the money results from transactions occurring more than two years before the audit, unless fraud is involved. States that a dealer is not liable to a manufacturer or distributor for money when an audit shows that the dealer failed to retain product parts for more than a specified time.

Sec. 45.27.610. Prohibits a manufacturer or distributor from competing with a dealer.

Sec. 45.27.620. Indicates what information a manufacturer or distributor must include in a factory recall notice to ultimate purchasers and dealers.

Sec. 45.27.630. Prohibits a manufacturer or distributor from using false or misleading advertising in connection with a dealer's agreement or the sale of products.

Sec. 45.27.640. Requires a dealer to post a notice with the dealer's retail labor rate. Requires the notice to state that warranty service work is performed by a factory-certified or factory-trained technician, if applicable.

Representative Mark Neuman
December 31, 2007
Page 5

Sec. 45.27.800. Makes an agreement provision not enforceable if it violates AS 45.27.

Sec. 45.27.810. Requires a manufacturer and a distributor to indemnify and hold a dealer harmless for damages suffered by the dealer due to the manufacturer's or distributor's violation of AS 45.27. Requires a manufacturer and a distributor to indemnify and hold a dealer harmless for damages due to complaints, claims, or lawsuits to the extent the damages arise out of certain acts of the manufacturer or distributor.

Sec. 45.27.820. Establishes a civil penalty for violating AS 45.27.

Sec. 45.27.830. Establishes a criminal penalty for violating AS 45.27.

Sec. 45.27.840. States that the provisions of AS 45.27 are in addition to any other remedies available under law or under an agreement between a dealer and a manufacturer or distributor.

Sec. 45.27.900. Exempts certain persons from AS 45.27.

Sec. 45.27.990. Defines terms for AS 45.27.

Sec. 45.27.995. Gives AS 45.27 a short title.

Section 3. Exempts marine product and motorized recreational product agreements from the provisions on distributorships.

Section 4. Adds a violation of AS 45.27 to the list of unfair trade practices.

Section 5. Removes action that is taken or refrained from in order to comply with AS 45.27 from the coverage of the state's provisions on monopolies and restraint of trade.

Section 6. States that this Act does not apply to an agreement entered into before the effective date of this Act.

Section 7. Within 180 days after the effective date of this Act, this transition section for new sec. 45.27.200 allows a manufacturer or distributor to sell or ship a product to a dealer before the dealer signs an agreement complying with AS 45.27.

Section 8. Gives this Act an immediate effective date.

If I may be of further assistance, please advise.

TLB:lmb
07-170.lmb

Maurice Lewis
Polaris
Honda
Kubota

Thank you
Alex Mobley
General Manager
Hartley Motors Inc

We have had many issues with warranty and product issues that have do hurt our ability to serve the customers and keep our business operating fairly and honestly. Most of all probably

We are in full support of howe
Bill 303.

To whom it may concern:

To: Representative Newman
Alaska Marine Dealers Assoc.

Hartley Motors
PO Box 870
Palmer, AK 99645

1-29-08



HARTLEY MOTORS, INC.

Palmer, Alaska 99645
MI. 36% P.K.T.S HWY.
(907) 745-1888
HONDA





A-1 Enterprises, Inc.
MARINE PRODUCTS • POLARIS

229 WILSON ST., SOLDOTNA, AK 99688 PHONE (907) 262-8888 FAX (907) 262-9911

29 January 2008

Marine Dealers Association;

I, Brian Alexander of A-1 Enterprises, Inc., show full support for House Bill 303.

Thank You,

Brian Alexander
A-1 Enterprises, Inc.
Owner / President



Homer Saw & Cycle



1532 Ocean Dr
Homer, Alaska 99603

Phone: 907-238-6400
Fax: 907-238-6960

To: Alaska Marine Dealers Association
Re: Pending Legislation

I support the pending legislation as I believe it will benefit the customer base in my area. We have been fighting unfair practice by our supplier for years and hope that this will be a positive direction for the industry. Please help us get this passed.

Thank you, Claire Waxman
Owner -Homer Saw & Cycle



The Alaskan way to go

January 29, 2008

Mark Neuman
State Capitol Room 432
Juneau, AK 99801

Dear Representative Neuman,

As a partner and co-owner of Marita Sea & Ski and Alaska Power Sports, businesses located in Anchorage involved in the retail sale of boats, outboard motors, snowmachines, all terrain vehicles and motorcycles, I am writing this letter of support for House Bill # 303. As presented to the legislature this bill is a very important piece of legislation that protects and supports the consumers of Alaska when they purchase the type of equipment that we sell. It will allow the end user (the consumer) to be able to receive full support and all entitlements as outlined in any of the manufacturer's warranties. This bill also protects the rights of small business in Alaska and levels the playing field, keeping the large manufacturers from "bullying" the small businesses that attempt to take care of the consumer. Once again, we want to reiterate our support of House Bill # 303. Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Wade A. Huls".

Wade A. Huls
Vice President/General Manager
Marita Sea & Ski
Alaska Power Sports

Rex Shattuck

From: Dudley Benesch [dudley@akmining.com]
Sent: Monday, January 28, 2008 12:02 PM
To: Rex Shattuck
Subject: HB303.doc

The Alaska State Snowmobile Association



To Whom It May Concern:

I would like to take a moment and reiterate the Alaska State Snowmobile Association's support for HB 303. This legislation is designed to address the current gap in published manufacturer's warranty assurances to the end consumers who purchase a product and the manufacturer's support of these warranty items to the local dealer. While there are several levels of consumer protection for vehicles that are DMV titled, the non-DMV titled vehicles have lagged considerably behind in the consumer protection process.

While the legal stipulations of this legislation are complex and beyond the ASSA realm of review, the impetus for compensating authorized dealers fairly for warranty work is without question worthy of support. As an organization participating in both statewide and national forums, we have seen this issue addressed throughout the ORV spectrum. Each one of us has either a personal anecdote or a close associate who has struggled with this issue. In almost every case, the local dealer is attempting to take care of a personal customer and struggling to do it within sometime arbitrary limitations set by manufacturers. Mandating that the manufacturers fulfill their commitments to both their local representatives and to the end user is overdue and will be a welcome item for consumers.

In conclusion, the Alaska State Snowmobile Association supports this legislation and offers our appreciation to Representative Neuman for sponsoring it.

Kevin Hite
President
Alaska State Snowmobile Association
www.aksnow.org
907-522-6373 Home
907-529-0106 Mobile

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1/28/2008

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

January 30, 2008

SUBJECT: CSHB 303(L&C) relating to marine products and motorized recreational products (Work Order No. 25-LS1183E)

TO: Representative Kurt Olson
Chair of the House Labor & Commerce Committee
Attn: Eleanor Wolfe

FROM: *TB*
Theresa Bannister
Legislative Counsel

This memo accompanies the bill described above.

1. Impairment of contracts issue. The provisions of the bill will apply to situations for which contract provisions may already be in place among dealers, manufacturers, distributors, and other persons. To the extent these new provisions change those existing contracts, they raise an issue under the constitutional provisions that prohibit the impairment of contracts (U.S. Constitution art. I, sec. 10, and Alaska Constitution art. I, sec. 15). The impairment must be substantial in order to be prohibited. I do not know whether this would be a serious problem in this situation, but I wanted you to be aware that the issue exists.
2. Interstate commerce. Because this draft could apply to out-of-state product manufacturers and distributors, it raises a constitutional interstate commerce issue. Whenever a bill establishes a requirement that may affect persons operating from another state, there is always a question whether the requirement places a burden on interstate commerce that would not satisfy the federal constitutional commerce clause. Unless the burden it imposes on interstate commerce is clearly excessive in relation to the anticipated local benefits, the requirement is likely to be valid under the commerce clause. I do not have enough information to evaluate the burden that this bill will impose.
3. Adding dealership to area of responsibility (AS 45.27.120). In the section of the bill adding a dealership to area of responsibility (AS 45.27.120), the language imposes certain notice requirements. This provision may raise an antitrust issue. The bill contains a provision that excludes the chapter's provisions from coverage by the state's antitrust statutes (AS 45.45.562 - 45.45.596). However, the new section may still be subject to federal antitrust law. Because the state does not "actively supervise" the activities under the bill, it does not appear that the state action immunity doctrine would remove them from coverage by federal antitrust law. I have not researched this matter in any depth, so

Representative Kurt Olson
January 30, 2008
Page 2

I am not certain that this is a significant matter, but I wanted you to be aware that the issue exists.

If I may be of further assistance, please advise.

TLB:med
08-065.med

Enclosure

CS FOR HOUSE BILL NO. 303(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered:

Referred:

Sponsor(s): REPRESENTATIVES NEUMAN, Harris, Thomas, Edgmon, Wilson

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to marine products and motorized recreational products; and**
2 **providing for an effective date."**

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

4 *** Section 1. AS 45.25 is amended by adding a new section to read:**

5 **Sec. 45.25.920. Conflicting provisions.** If a provision of this chapter conflicts
6 with a provision in AS 45.27, the provision in AS 45.27 governs.

7 *** Sec. 2. AS 45 is amended by adding a new chapter to read:**

8 **Chapter 27. Marine Products and Motorized Recreational Products.**

9 **Article 1. Agreement Practices of Product Manufacturers and Distributors.**

10 **Sec. 45.27.010. Formation of agreement.** A manufacturer or distributor may
11 not coerce or attempt to coerce an authorized dealer to enter into an agreement with
12 the manufacturer or distributor.

13 **Sec. 45.27.020. Cancellation or nonrenewal of agreement.** (a) A
14 manufacturer or distributor may not threaten to cancel an agreement with an

1 authorized dealer without just cause.

2 (b) A manufacturer or distributor may not, without just cause and 120 days'
3 advance written notice, cancel or refuse to renew an agreement with an authorized
4 dealer unless the cancellation or refusal to renew arises out of

5 (1) failure of the authorized dealer to meet the financial requirements
6 of the agreement; or

7 (2) fraudulent activity of the authorized dealer that results in the
8 authorized dealer's being convicted of a crime, including being convicted by a plea of
9 guilty or no contest.

10 **Sec. 45.27.030. Consent to transfer of agreement.** (a) A manufacturer or
11 distributor may not unreasonably withhold consent to the sale or other transfer of an
12 agreement by an authorized dealer to a transferee if the transferee

13 (1) meets the criteria generally applied by the manufacturer or
14 distributor when approving new authorized dealers; and

15 (2) agrees to be bound by all the terms and conditions of the standard
16 form of the agreement.

17 (b) A manufacturer or distributor shall respond in writing to an authorized
18 dealer's written request for consent under (a) of this section within 30 days after of
19 receiving the authorized dealer's written request. The request must be on a form, if
20 any, that is generally used by the manufacturer or distributor for the purpose and that
21 contains the information required by the manufacturer or distributor.

22 (c) If a manufacturer or distributor fails to respond to an authorized dealer as
23 required by (b) of this section, the manufacturer or distributor is considered to have
24 consented to the request.

25 **Sec. 45.27.040. Change in existing agreement.** Except as provided by
26 AS 45.25.110, a manufacturer or distributor may not change an agreement with an
27 authorized dealer unless the manufacturer or distributor gives notice by mail to the
28 authorized dealer at least 90 days before the change.

29 **Article 2. Area of Responsibility.**

30 **Sec. 45.27.100. Determination of area of responsibility.** (a) Unless the
31 authorized dealer's agreement establishes a smaller area of responsibility, an

1 authorized dealer's area of responsibility may be a geographical area designated by zip
2 code, municipality, or mileage radius in the authorized dealer's agreement with a
3 manufacturer or distributor and may be established by the uniform procedures adopted
4 under (c) of this section.

5 (b) If the authorized dealer and the manufacturer or distributor have not
6 established an area of responsibility under (c) of this section, or if the area of
7 responsibility established by the manufacturer or distributor is rejected by the
8 authorized dealer, the area of responsibility is a

9 (1) 12-mile radius from the authorized dealer if the authorized dealer is
10 located in a municipality containing 4,000 persons or more; or

11 (2) 30-mile radius from the authorized dealer if the authorized dealer is
12 located in a municipality containing fewer than 4,000 persons.

13 (c) The manufacturer or distributor shall adopt uniform procedures to establish
14 an area of responsibility. The uniform procedures must include market research
15 information from identified credible industry sources that project sales of the brand of
16 the products under the agreement between the authorized dealer and the manufacturer
17 or distributor.

18 **Sec. 45.27.110. Changing area of responsibility.** Before changing an area of
19 responsibility, the manufacturer or distributor shall give the authorized dealer at least
20 90 days' written notice by mail before the change. This section does not apply to an
21 authorized dealer who relocates or opens additional facilities within two miles of the
22 authorized dealer's existing facilities unless the relocation would infringe on another
23 authorized dealer's area of responsibility.

24 **Sec. 45.27.120. Adding authorized dealer to area of responsibility.** (a) A
25 manufacturer or distributor may not enter into an agreement that would add an
26 authorized dealer within the existing authorized dealer's area of responsibility without
27 giving at least 90 days' written notice by mail to all potentially affected authorized
28 dealers in the area of responsibility.

29 (b) The notice under (a) of this section must include

30 (1) a determination that the community or territory can support an
31 additional authorized dealer;

1 (2) a calculation of the financial effect on the new authorized dealer
2 and the existing authorized dealers who may be affected; and

3 (3) a determination of whether the existing authorized dealers of the
4 same line of product makes, models, or classifications in the authorized dealer's area
5 of responsibility are providing adequate representation, competition, and convenient
6 consumer care for the same line of product makes, models, and classifications located
7 in that area of responsibility.

8 (c) The potentially affected authorized dealers shall have at least 60 days to
9 provide additional information and comments to the manufacturer or distributor before
10 the manufacturer or distributor makes a final decision.

11 **Article 3. General Product Provisions.**

12 **Sec. 45.27.200. Sale or shipment before agreement.** A manufacturer or
13 distributor may not sell or ship a product to an authorized dealer before the authorized
14 dealer signs an agreement that complies with this chapter.

15 **Sec. 45.27.210. Involuntary order or delivery.** A manufacturer or distributor
16 may not coerce or attempt to coerce an authorized dealer to order or accept delivery of
17 a

18 (1) product or another item that the authorized dealer has not
19 voluntarily ordered; or

20 (2) product with a special feature, appliance, accessory, or equipment
21 that is not included in the manufacturer's or distributor's advertised list for the product.

22 **Sec. 45.27.220. Refusal to deliver or ship.** A manufacturer or distributor may
23 not, without just cause, refuse to deliver or ship, within 60 days after the authorized
24 dealer's order has been received, to an authorized dealer a product that the
25 manufacturer or distributor has publicly advertised is available for immediate delivery.

26 **Sec. 45.27.230. Sale after termination or nonrenewal.** After an effective
27 termination or nonrenewal of an agreement, a manufacturer or distributor shall
28 continue, for at least 24 months, to sell the authorized dealer parts for products sold by
29 the authorized dealer before the termination or nonrenewal.

30 **Sec. 45.27.240. Delivery of products in reasonable quantities.** A
31 manufacturer or distributor may not delay, refuse, or fail to deliver products in

1 reasonable quantities to an authorized dealer unless the delay, refusal, or failure is
2 caused by an act beyond the control of the manufacturer, the distributor, or a person
3 related to the manufacturer or distributor.

4 **Sec. 45.27.250. Selection of delivery method.** Unless otherwise provided by
5 the agreement, a manufacturer or distributor may not refuse to allow an authorized
6 dealer to select the method and carrier for the delivery of products to the authorized
7 dealer by the manufacturer or distributor.

8 **Sec. 45.27.260. Product damage responsibility.** (a) A manufacturer or
9 distributor is solely responsible for damage to a product that occurs before the
10 manufacturer or distributor delivers the product to a carrier.

11 (b) An authorized dealer is not responsible for damage to a new product that
12 occurs while the product is in the possession of the carrier unless the authorized dealer
13 selects the method of transportation and the carrier.

14 (c) An authorized dealer is solely responsible for damage to a new product
15 that occurs after the authorized dealer accepts the product from the carrier and before
16 delivery to the ultimate purchaser unless the damage results from a latent or hidden
17 defect or is not reasonably observable at the time the authorized dealer accepts the
18 product. An authorized dealer accepts a product when the authorized dealer signs a
19 delivery receipt for the product.

20 (d) An authorized dealer may refuse to accept a damaged product from a
21 manufacturer or distributor by giving written notice to the manufacturer or distributor
22 within 10 business days after the product is delivered to the authorized dealer. If an
23 authorized dealer refuses to accept the damaged product, the manufacturer or
24 distributor shall, within 10 days after receiving the notice from the authorized dealer,
25 credit the authorized dealer's account for the product cost that the manufacturer or
26 distributor charged to the authorized dealer and any freight and interest charged to the
27 authorized dealer for the product.

28 **Article 4. Product Repurchase Requirements.**

29 **Sec. 45.27.300. Manufacturer or distributor mandatory repurchase.** (a) If
30 an authorized dealer discontinues engaging in the business of being an authorized
31 dealer and gives 30 days' advance written notice of the discontinuance to the