

HOUSE JOURNAL
ALASKA STATE LEGISLATURE
TWENTY-FIFTH LEGISLATURE – SECOND SESSION

Juneau, Alaska

Thursday

January 17, 2008

Third Day

Pursuant to adjournment the House was called to order by Speaker Harris at 10:05 a.m.

Roll call showed 33 members present. Representatives Gatto, Gruenberg, Holmes, LeDoux, Samuels, and Seaton had been excused from a call of the House today. Representative Neuman was absent.

The invocation was offered by the Chaplain, the Reverend George Silides of Holy Trinity Episcopal Church. Representative Coghill moved and asked unanimous consent that the invocation be spread on the journal. There being no objection, it was so ordered.

With deepest respect for the religious traditions of all Alaskans, I offer this prayer.

O God, from whose hand all life is granted, who shaped the mountains and set the boundaries of the waters, we give you thanks for the wealth of land and sea. We thank thee also for the richness of cultures and traditions which make up the living fabric of this great land. We give thee especial thanks for the first stewards of this land and the lessons they have handed down from one generation to another.

Help us to remember that while we have a special place within creation that we are a part of that creation and not separate from it. Upon all those who make their living working directly to harvest the riches of this earth, on open sea or forest trails or beneath the earth itself, we pray your

wisdom upon their choices and protection upon their labors. For those who ferry us across the waves and across the skies, we give you thanks. For all those whose work and leisure are determined by the schedules we wish to keep, give us a due sense of appreciation and respect. And I pray that the challenges set before this House by their right ambition to serve the people of this land with all proper haste remain a best intention and not become a millstone of obligation. May every gift you have given each of these, your servants, be put to the best use for the sake of all. Amen.

The Pledge of Allegiance was led by Representative Gara.

CERTIFICATION OF THE JOURNAL

Representative Foster, Acting Majority Leader, moved and asked unanimous consent that the journal for the second legislative day be approved as certified by the Chief Clerk. There being no objection, it was so ordered.

COMMUNICATIONS

The following were received:

Dept. of Environmental Conservation
National Pollutant Discharge Elimination System
Progress Report
January 15, 2008
(as required by Chapter No. 95, SLA 2005)

Dept. of Transportation & Public Facilities
Knik Arm Bridge & Toll Authority
2007 Annual Report
(as required by AS 19.75.111)

REPORTS OF STANDING COMMITTEES

SB 139

The Judiciary Committee considered:

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 139

"An Act repealing a limitation on the liability of certain airfield owners or operators."

and recommends it be replaced with:

HOUSE CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 139(JUD)

"An Act modifying the criteria used to limit liability for certain airfield owners or operators."

(pending title change resolution)

The report was signed by Representative Ramras, Chair, with the following individual recommendations:

Do pass (3): Lynn, Samuels, Ramras

No recommendation (3): Coghill, Dahlstrom, Holmes

The following fiscal note(s) apply to HCS SSSB 139(JUD):

3. Zero, Dept. of Administration
4. Zero, Dept. of Law

SSSB 139 was referred to the Rules Committee for placement on the calendar.

**INTRODUCTION, FIRST READING, AND REFERENCE
OF HOUSE BILLS**

HB 322

HOUSE BILL NO. 322 by the House Rules Committee by request of the Governor, entitled:

"An Act establishing the Alaska transportation fund and relating to the fund; and providing for an effective date."

was read the first time and referred to the Transportation and Finance Committees.

The following fiscal note(s) apply:

1. Zero, Dept. of Transportation & Public Facilities
2. Fiscal, Dept. of Revenue

The Governor's transmittal letter dated January 15, 2008, follows:

"Dear Speaker Harris:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill establishing a state transportation fund.

An efficient and functional transportation system is vital to Alaska's economy. For the first time in Alaska's history, a reliable source of state financing would be in place. The bill would result in a predictable yearly amount that would be available to supplement state transportation financing. With growth over time through investment and future contributions, the fund could help ensure Alaska's transportation infrastructure is adequately maintained and improved.

Declining federal funding and the need for transportation infrastructure to grow our economy make establishing a transportation fund a smart and fiscally responsible decision. In addition, high oil prices resulting in budget surpluses, uniquely position Alaska to utilize our non-renewable natural resource wealth to generate renewable dollars for years to come. A stable source of transportation funding would benefit current and future generations of Alaskans alike, and would reduce Alaska's dependence on federal aid dollars. Furthermore, the use of state funds would allow critical projects to be completed much sooner than through the traditional federal highways program. This is because the state funded projects are not subject to the time consuming scrutiny the federal funding process entails.

The need for this new, permanent source of funding for transportation could not be more evident. Rutted pavements, delayed projects, and urban congestion are common problems in this state. Federal transportation dollars, though adequate in past decades, no longer meet

all the basic needs of the state. Like education, transportation is a basic government service and one that affects the daily lives of all citizens. Other states are enacting their second and third tier of non-federal financing mechanisms. It is time for Alaska to enact its first.

I urge your prompt and favorable action on this measure.

Sincerely,
/s/
Sarah Palin
Governor"

HB 323

HOUSE BILL NO. 323 by the House Rules Committee by request of the Governor, entitled:

"An Act relating to the crimes of assault in the fourth degree and of resisting or interfering with arrest; relating to the determination of time of a conviction; relating to offenses concerning controlled substances; relating to issuance of search warrants; relating to persons found incompetent to stand trial concerning criminal conduct; relating to probation and to restitution for fish and game violations; relating to aggravating factors at sentencing; relating to criminal extradition authority of the governor; removing the statutory bar to prosecution of certain crimes; amending Rule 37(b), Alaska Rules of Criminal Procedure, relating to execution of warrants; and providing for an effective date."

was read the first time and referred to the Judiciary and Finance Committees.

The following fiscal note(s) apply:

1. Zero, Dept. of Health & Social Services
2. Zero, Dept. of Public Safety
3. Indeterminate, Dept. of Administration
4. Indeterminate, Dept. of Administration
5. Indeterminate, Dept. of Corrections
6. Fiscal, Dept. of Law

The Governor's transmittal letter dated January 15, 2008, follows:

"Dear Speaker Harris:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill making important changes to Alaska criminal law. These changes would continue the state's efforts to make Alaska a safer and healthier place to live and work.

Domestic and other forms of violence are highly prevalent in Alaska. It is shocking that women are murdered by men in Alaska at one of the highest rates in the country. Domestic violence, and other forms of violence, often begin by a perpetrator committing less serious assaults, and then progressing to more harmful conduct. Most domestic violence assaults are prosecuted as assault in the fourth degree, which is a class A misdemeanor. The bill would address the progressive nature of violence by providing that a person convicted of assault in the fourth degree (except under the theory of recklessly placing another in fear) who has two or more convictions for serious crimes against a person in the past 10 years, would be guilty of a class C felony. The maximum term of incarceration for a class C felony is five years.

The procedure for protecting the public from a person, who as a result of a mental disease or defect is incompetent to be tried for a crime, has some cracks that need to be filled. Two recent cases have highlighted the problem. For example, a person charged with a serious felony was found to be incompetent to be tried for the offense. After a period at Alaska Psychiatric Institute, the person was released, returned to the person's home community, and again committed the same serious felony. The bill would address this problem in several ways; first it requires a person found incompetent to be referred to the commissioner of health and social services for evaluation and treatment. It would also require ten days notice to the prosecuting authority by the professional in charge of the person's care before the person may be released.

The bill would also clarify the intent of the Legislature when it provided, in the late 1980s, that a third conviction for theft within a five year period would increase the severity of the crime one level. At that time it was generally assumed, for purposes of subsequent enhancement, that a conviction occurs at the time the sentence was imposed. The bill would provide expressly in statute that, in looking back to the prior convictions for purposes of enhancing the current theft, the court should look back to the date the defendant was sentenced for the prior offenses.

Since early statehood, Alaska has had a statutory prohibition on the state prosecuting and punishing a person, including a corporation, for an act that another jurisdiction has already prosecuted. This policy is not based on constitutional law; the state and federal constitutional prohibitions against being placed twice in jeopardy for the same act do not prohibit distinct government authorities from prosecuting the same act under different bodies of law. Recent events have suggested a reconsideration of this policy. The federal criminal prosecution of misconduct by public officials in Alaska is an example of crime that might also be pursued under state law. The state should be able to protect its unique interests, even when the federal government has acted to redress federal interests. Repeal of AS 11.71.310 (Bar to Prosecution) and AS 12.20.010 (Conviction or Acquittal Elsewhere as Bar) would assist in that endeavor.

The bill would make other changes in criminal law. One would allow a court to issue a search warrant by telephone or other reliable means rather than an in person hearing. Telephonic communications today are sophisticated enough to allow for a fair hearing without requiring a personal appearance; most Alaskans rely on telephonic communications for many of their important affairs. The bill would also give judges more discretion to allow a later return of a search warrant inventory to allow for long-term investigations and protection of persons working with law enforcement. Another provision adds the substances commonly known as Soma and Ambien to Schedule IVA of Alaska's prohibited substances. Recent injuries from driving impaired by misuse of these substances support their addition to Alaska's drug schedules as controlled substances.

Enactment of this bill into law would protect Alaskans and help the criminal justice system function fairly and at the same time more efficiently. I urge your prompt and favorable consideration of it.

Sincerely,

/s/

Sarah Palin
Governor"

HB 324

HOUSE BILL NO. 324 by the House Rules Committee by request of the Governor, entitled:

"An Act relating to the Alaska housing trust fund and to the Alaska Council on the Homeless; and providing for an effective date."

was read the first time and referred to the Health, Education & Social Services and Finance Committees.

The following fiscal note(s) apply:

1. Zero, Dept. of Corrections
2. Zero, Dept. of Health & Social Services
3. Zero, Dept. of Public Safety
4. Fiscal, Dept. of Revenue

The Governor's transmittal letter dated January 15, 2008, follows:

"Dear Speaker Harris:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the Alaska Housing Trust Fund and to the Alaska Council on the Homeless.

Homelessness is one of the most challenging domestic issues facing the United States. Alaska is no exception. Alaska's Faith-Based and Community Initiatives Task Force found housing to be the most commonly identified challenge facing those in need. On any given night 3,500 Alaskans are homeless, including 1,600 people in families

with children. Currently, 4,000 Alaska households are on the waiting list for public housing programs and most are families with children. Furthermore, 20,000 low-income Alaska households spend over half their income on housing, placing them at risk of homelessness.

The Alaska Council on the Homeless was initially established by Administrative Order No. 214 in April 2004 to develop a statewide action plan addressing homelessness in Alaska.

The plan, Keeping Alaskans Out of the Cold, was completed and submitted in October 2005. Included in its recommendations was the appointment of a permanent council to assist the Governor and Legislature to develop an affordable housing trust fund. The Alaska Council on the Homeless completed its work in 2006 and recommended that the Alaska Housing Trust Fund (fund) be created within the Alaska Housing Finance Corporation under AS 18.56. The bill would also provide for advice for governance of the fund by establishing the Alaska Council on the Homeless in permanent law. To date, the council has operated under the authority of administrative orders.

The bill would create a fund to serve as a financial structure for receiving money to address the needs of Alaska's homeless. The bill would provide authority to provide financial assistance intended to promote the creation and retention of an adequate supply of affordable housing for eligible persons. The fund could also be expended to create capital improvements intended to alleviate homelessness, assist eligible persons in avoiding foreclosures and evictions, provide financial assistance to support housing retention services or to encourage transition from dependency on low-cost housing, and permit participation in demonstration housing projects that address the needs of the homeless.

I urge your prompt and favorable consideration on this measure.

Sincerely,

/s/

Sarah Palin
Governor"

HB 325

HOUSE BILL NO. 325 by the House Rules Committee by request of the Governor, entitled:

"An Act relating to the teachers' and nurses' housing loan program in the Alaska Housing Finance Corporation; and providing for an effective date."

was read the first time and referred to the Health, Education & Social Services and Finance Committees.

The following fiscal note(s) apply:

1. Zero, Dept. of Revenue

The Governor's transmittal letter dated January 15, 2008, follows:

"Dear Speaker Harris:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that would expand the teachers' and nurses' housing loan program established within the Alaska Housing Finance Corporation. This bill expands the program to allow licensed or certified health care professionals, including registered nurses, in the state to take advantage of the housing loan program. This loan program is a crucial component in Alaska school districts' and communities' ability to recruit and retain qualified public school teachers, counselors, school administrators, and health care professionals.

In 2003 Senate Bill 25 was signed into law establishing the loan program. Under this program, a qualified applicant is allowed to purchase an owner-occupied home, without paying a conventional down payment. As of October 31, 2007, 373 loans in 34 Alaska communities have been made to teachers and registered nurses, comprising over 72 million dollars in loans.

This bill would make two significant changes to the existing program. First, the original legislation contained a five-year sunset provision that would repeal the program on July 1, 2008. This bill would repeal

the sunset provision and would make the program permanent within the Alaska Housing Finance Corporation. Second, this bill would expand the program to allow qualified licensed or certified health care professionals, including registered nurses, in the state to take advantage of the housing loans. There is a serious shortage of health care professionals in Alaska. With this change, I hope to use this housing loan program to help reduce this shortage. I am committed to improving access to health care services and I believe expanding the housing loan program will help accomplish this goal.

I urge your prompt and favorable action on this measure.

Sincerely,

/s/

Sarah Palin
Governor"

HB 326

HOUSE BILL NO. 326 by the House Rules Committee by request of the Governor, entitled:

"An Act authorizing the governor to delegate to the adjutant general the authority to order the organized militia into active state service and authorizing the payment of Alaska National Guard called into active state service to fight wildfires at rates of pay established for certain emergency fire-fighting personnel; and providing for an effective date."

was read the first time and referred to the House Special Committee on Military & Veterans' Affairs and the Finance Committee.

The following fiscal note(s) apply:

1. Zero, Dept. of Administration
2. Indeterminate, Dept. of Military & Veterans' Affairs
3. Indeterminate, Dept. of Natural Resources

The Governor's transmittal letter dated January 15, 2008, follows:

"Dear Speaker Harris:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill authorizing the Governor to delegate to the adjutant general the authority to order the organized militia into active state service and authorizing payment of Alaska National Guard called into active state service to fight wildfires at rates of pay established for certain emergency fire-fighting personnel.

Section 1 of the bill would amend AS 26.05.070, which authorizes the Governor to order the organized militia into active state service in certain circumstances, to authorize the Governor to delegate to the adjutant general the authority to order the organized militia into active state service if these circumstances exist. The organized militia includes the Alaska National Guard, the Alaska Naval Militia, and the Alaska State Defense Force. The circumstances under which the organized militia may be called into active state service include the occurrence or imminent danger of occurrence of a disaster or other catastrophe. Authorizing the Governor to delegate to the adjutant general the authority to order the organized militia into active state service is appropriate to allow a rapid response to such events, particularly if the Governor is not immediately available.

Section 2 of the bill would amend AS 26.05.260(b), which establishes the pay for members of the Alaska National Guard and the Alaska Naval Militia called into active state service under AS 26.05.070, to authorize the payment of Alaska National Guard personnel called to active state service to fight wildfires at rates of pay established for emergency fire-fighting personnel under AS 41.15.030 if the adjutant general and the commissioner of natural resources so agree. Existing AS 41.15.030 provides that the commissioner of natural resources may hire emergency fire-fighting personnel and shall establish classifications and rates of pay for the emergency fire-fighting personnel consistent with the compensation paid by other fire-fighting agencies. The amendment to AS 26.05.260(b) will allow pay parity between national guard and civilian personnel of specified classifications fighting wildfires by agreement between the commissioner of natural resources and the adjutant general. Section 2 would also amend AS 26.05.260(b) to remove an outdated provision relating to payment of Alaska National Guard and Alaska Naval

Militia members for active service performed during the fiscal year ending June 30, 2000.

I urge your prompt and favorable action on this measure.

Sincerely,

/s/

Sarah Palin

Governor"

HB 327

HOUSE BILL NO. 327 by the House Rules Committee by request of the Governor, entitled:

"An Act relating to shipping, sending, transporting, or bringing alcohol to a local option area and providing alcohol to others in the local option area, including penalties for violations; relating to furnishing alcohol to a minor and to civil penalties for licensees whose agents or employees furnish alcohol to a minor; relating to manslaughter as a direct result of ingestion of alcoholic beverages brought in violation of a local option prohibition; relating to reports of the court concerning certain alcohol violations by minors; making conforming amendments; and providing for an effective date."

was read the first time and referred to the Community & Regional Affairs, Judiciary, and Finance Committees.

The following fiscal note(s) apply:

1. Zero, Dept. of Administration
2. Zero, Dept. of Health & Social Services
3. Zero, Dept. of Law
4. Zero, Dept. of Public Safety
5. Indeterminate, Dept. of Administration
6. Indeterminate, Dept. of Administration
7. Indeterminate, Dept. of Corrections
8. Fiscal, Dept. of Public Safety

The Governor's transmittal letter dated January 15, 2008, follows:

"Dear Speaker Harris:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that would build on the significant efforts made in the last several years to curb the catastrophic health, economic, and social problems that arise from alcohol abuse in Alaska. The bill addresses problems arising both in larger urban areas and in communities that have adopted local options limiting possession, sale, or importation of alcohol.

A liquor licensee's agents or employees, such as bartenders or package store clerks, may be charged with a class A misdemeanor, or a class C felony under certain circumstances, if they sell or serve alcohol to a person under 21 years of age. Under current law, there is no adverse consequence to the licensee if the person's agent or employee has furnished alcohol to a minor. The bill would adopt civil penalties -- a civil fine for the first time an agent or employee is convicted, and a civil fine and a license suspension for a second and subsequent conviction of an agent or employee within a five-year period. These consequences would increase the incentive for licensees to train and supervise agents and employees in a way that would emphasize service only to persons 21 years of age and older.

Persons who illegally bring alcohol into a community in violation of a local option, commonly called bootleggers, cause serious harm to their communities. The prosecution of bootleggers requires significant effort by both law enforcement and prosecutors. When the prosecution of a bootlegger is successful, penalties that would deter future violations are important. The bill would impose mandatory minimum terms of imprisonment and fines for bootleggers that are identical to the mandatory minimum terms and fines for drunk drivers and persons who refuse to take a breath test. Bootleggers often repeat their illegal conduct. The bill would provide that a person who illegally brings alcohol into a local option area, and has been convicted twice in the past ten years, may be prosecuted for a class C felony. This is similar to the penalties for drunk driving and refusal, except that the proposed look-back period is ten years, as compared to the look-back period of 15 years for drunk driving and refusal. The bill

would also allow persons convicted of bootlegging offenses to be eligible for referral to the therapeutic court, as are persons convicted of drunk driving and refusal.

Persons who bring alcohol into a community in violation of local option laws can cause serious harm and even death to members of their community. The bill would amend the manslaughter statute to apply to a person who brings alcohol into a community in violation of a local option, if a person dies as a direct result of ingesting the alcohol. This change is similar to the amendment to the manslaughter statute adopted last year, that prohibited causing death by delivery of certain illegal drugs, if death is the direct result of ingestion of the drug.

The Rural Justice Commission made several recommendations for alcohol enforcement that have already been enacted into law. One recommendation not yet adopted but strongly supported by law enforcement is included in the bill. It would prohibit sending alcohol in plastic containers to a local option area, unless it is sent to a community delivery site. Plastic bottles are much more difficult to detect, because they weigh less and result in less detectible shipping noise during transportation as compared to glass bottles.

Finally, the bill would clarify that the court is required under AS 28.15.191(a) to make certain reports to the Department of Administration concerning certain violations of alcohol laws by minors for insertion on the central driver's license database.

This bill would help local communities address many of the problems of alcohol abuse. I urge your prompt and favorable consideration of this proposal.

Sincerely,

/s/

Sarah Palin
Governor"

HB 328

HOUSE BILL NO. 328 by Representative Doogan, entitled:

"An Act making supplemental appropriations, reappropriations, and appropriations to the constitutional budget reserve fund; and providing for an effective date."

was read the first time and referred to the Finance Committee.

HB 329

HOUSE BILL NO. 329 by Representative Doogan, entitled:

"An Act relating to consent to abortion and parental notification of an abortion on a minor; and repealing the judicial bypass provisions relating to abortions."

was read the first time and referred to the Health, Education & Social Services and Judiciary Committees.

HB 330

HOUSE BILL NO. 330 by the House Resources Committee, entitled:

"An Act relating to management of noxious weeds and invasive plants; establishing the Noxious Weed and Invasive Plant Board; and establishing the noxious weed and invasive plant management fund."

was read the first time and referred to the Resources and Finance Committees.

LEGISLATIVE CITATIONS

Representative Foster moved and asked unanimous consent that the House approve the citation on the calendar. There being no objection, the following citation was approved and sent to enrolling:

Honoring – 25 Years of the Tesoro Iron Dog, the World's Longest, Toughest Snowmobile Race

By Senator Green; Representatives Harris, Buch, Chenault, Cissna, Coghill, Crawford, Dahlstrom, Doll, Doogan, Edgmon, Fairclough, Gara, Gatto, Gruenberg, Guttenberg, Hawker, Holmes, Johansen, Johnson, Joule, Kawasaki, Keller, Kelly, Kerttula, LeDoux, Lynn, Meyer, Nelson, Neuman, Olson, Ramras, Roses, Salmon, Samuels, Seaton, Stoltze, Thomas, Wilson

UNFINISHED BUSINESS**HB 284**

Representative Kerttula added her name as first cosponsor to:

HOUSE BILL NO. 284

"An Act relating to participation in certain student fellowships as an allowable absence from the state for purposes of eligibility for permanent fund dividends; and providing for an effective date."

The sponsors are Representatives Hawker, Kerttula, Chenault, Lynn, and Buch.

ANNOUNCEMENTS

House committee schedules are published daily under separate cover.

ADJOURNMENT

Representative Foster moved and asked unanimous consent that the House adjourn until 10:00 a.m., January 18, 2008. There being no objection, the House adjourned at 10:17 a.m.

Suzi Lowell
Chief Clerk