

**ALASKA STATE LEGISLATURE  
HOUSE JUDICIARY STANDING COMMITTEE**

April 22, 2002

1:43 p.m.

**MEMBERS PRESENT**

Representative Norman Rokeberg, Chair  
Representative Jeannette James  
Representative John Coghill  
Representative Kevin Meyer  
Representative Ethan Berkowitz  
Representative Albert Kookesh

**MEMBERS ABSENT**

Representative Scott Ogan, Vice Chair

**COMMITTEE CALENDAR**

HOUSE BILL NO. 489

"An Act relating to cruelty to animals."

- MOVED CSHB 489(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 180

"An Act requiring child services providers to obtain criminal background checks for child services workers."

- MOVED CSHB 180(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 510

"An Act relating to the regulation of commercial motor vehicles to avoid loss or withholding of federal highway money, and to out-of-service orders concerning commercial motor vehicles; amending Rule 43.1, Alaska Rules of Administration; and providing for an effective date."

- MOVED HB 510 OUT OF COMMITTEE

HOUSE BILL NO. 246

"An Act relating to confidentiality of records and to cease and desist orders of the division of insurance, to insurance company investments, to unauthorized insurers, to surplus lines insurance, to health insurance, to life insurance, to annuity insurance, to consumer credit insurance, to title insurance, and

to hospital and medical service corporations; and providing for an effective date."

- MOVED CSHB 246(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 460

"An Act relating to actions for monopolies and restraint of trade, including proof of damages; amending Rule 82, Alaska Rules of Civil Procedure; and providing for an effective date."

- MOVED HB 460 OUT OF COMMITTEE

CS FOR SENATE BILL NO. 222(FIN)

"An Act relating to certain motor vehicles that are required to yield to following traffic."

- BILL HEARING POSTPONED TO 4/24/02

**PREVIOUS ACTION**

BILL: HB 489

SHORT TITLE:CRUELTY TO ANIMALS

SPONSOR(S): REPRESENTATIVE(S)CHENAULT

Jrn-Date	Jrn-Page		Action
02/19/02	2319	(H)	READ THE FIRST TIME - REFERRALS
02/19/02	2319	(H)	JUD
02/22/02	2370	(H)	COSPONSOR(S): KOTT
03/01/02	2450	(H)	COSPONSOR(S): CROFT
03/06/02	2497	(H)	COSPONSOR(S): JAMES, FOSTER
03/15/02		(H)	JUD AT 1:00 PM CAPITOL 120
03/15/02		(H)	Heard & Held
03/15/02		(H)	MINUTE(JUD)
03/15/02	2564	(H)	COSPONSOR(S): LANCASTER
03/20/02	2628	(H)	COSPONSOR(S) REMOVED: JAMES
04/19/02		(H)	JUD AT 1:30 PM CAPITOL 120
04/19/02		(H)	Heard & Held -- Time Change MINUTE(JUD)
04/22/02		(H)	JUD AT 1:30 PM CAPITOL 120

BILL: HB 180

SHORT TITLE:BACKGROUND CHECK OF YOUTH WORKER

SPONSOR(S): REPRESENTATIVE(S)MCGUIRE

Jrn-Date	Jrn-Page		Action
03/13/01	0560	(H)	READ THE FIRST TIME -

			REFERRALS
03/13/01	0560	(H)	HES, JUD
03/16/01	0636	(H)	COSPONSOR(S): DYSON
04/10/01		(H)	HES AT 3:00 PM CAPITOL 106
04/10/01		(H)	<Bill Postponed to 4/19>
04/19/01		(H)	HES AT 3:00 PM CAPITOL 106
04/19/01		(H)	Heard & Held
04/19/01		(H)	MINUTE(HES)
02/04/02	2152	(H)	COSPONSOR(S): CROFT
04/18/02		(H)	HES AT 3:00 PM CAPITOL 106
04/18/02		(H)	Moved CSHB 180(HES) Out of Committee MINUTE(HES)
04/19/02	3048	(H)	COSPONSOR(S): STEVENS
04/22/02		(H)	JUD AT 1:30 PM CAPITOL 120

BILL: HB 510

SHORT TITLE:COMMERCIAL MOTOR VEHICLES:REGULATIONS  
SPONSOR(S): TRANSPORTATION

Jrn-Date	Jrn-Page		Action
03/22/02	2644	(H)	READ THE FIRST TIME - REFERRALS
03/22/02	2644	(H)	TRA, JUD
03/28/02		(H)	TRA AT 1:00 PM CAPITOL 17
03/28/02		(H)	-- Meeting Canceled --
04/02/02		(H)	TRA AT 1:00 PM CAPITOL 17
04/02/02		(H)	Moved Out of Committee
04/02/02		(H)	MINUTE(TRA)
04/03/02	2777	(H)	TRA RPT 4DP
04/03/02	2777	(H)	DP: MASEK, SCALZI, WILSON, KOHRING
04/03/02	2777	(H)	FN1: ZERO(DOT)
04/22/02		(H)	JUD AT 1:30 PM CAPITOL 120

BILL: HB 246

SHORT TITLE:OMNIBUS INSURANCE BILL  
SPONSOR(S): LABOR & COMMERCE BY REQUEST

Jrn-Date	Jrn-Page		Action
04/17/01	1015	(H)	READ THE FIRST TIME - REFERRALS
04/17/01	1015	(H)	L&C, JUD
04/15/02		(H)	L&C AT 3:15 PM CAPITOL 17
04/15/02		(H)	Moved CSHB 246(L&C) Out of Committee MINUTE(L&C)

04/17/02	2967	(H)	L&C RPT CS(L&C) NT 5DP 1NR
04/17/02	2967	(H)	DP: ROKEBERG, HAYES, CRAWFORD, KOTT,
04/17/02	2967	(H)	MURKOWSKI; NR: MEYER
04/17/02	2968	(H)	FN1: ZERO(CED)
04/22/02		(H)	JUD AT 1:30 PM CAPITOL 120

BILL: HB 460

SHORT TITLE: ANTITRUST CIVIL COURT ACTIONS

SPONSOR(S): REPRESENTATIVE(S) CROFT

Jrn-Date	Jrn-Page		Action
02/19/02	2312	(H)	READ THE FIRST TIME - REFERRALS
02/19/02	2312	(H)	L&C, JUD
04/17/02		(H)	L&C AT 3:15 PM CAPITOL 17
04/17/02		(H)	Moved Out of Committee MINUTE(L&C)
04/18/02	3001	(H)	L&C RPT 3DP 3NR
04/18/02	3001	(H)	DP: CRAWFORD, HAYES, MURKOWSKI;
04/18/02	3001	(H)	NR: ROKEBERG, MEYER, HALCRO
04/18/02	3001	(H)	FN1: INDETERMINATE(LAW)
04/18/02	3019	(H)	FIN REFERRAL ADDED AFTER JUD
04/22/02		(H)	JUD AT 1:30 PM CAPITOL 120

**WITNESS REGISTER**

HEATHER M. NOBREGA, Staff  
to Representative Norman Rokeberg  
House Judiciary Standing Committee  
Alaska State Legislature  
Capitol Building, Room 118  
Juneau, Alaska 99801

POSITION STATEMENT: Explained the changes made in the proposed committee substitute (CS) to HB 489.

REPRESENTATIVE LESIL McGUIRE  
Alaska State Legislature  
Capitol Building, Room 418  
Juneau, Alaska 99801

POSITION STATEMENT: Sponsor of HB 180.

JOANNE GIBBENS, Program Administrator  
Central Office  
Division of Family & Youth Services (DFYS)  
Department of Health & Social Services (DHSS)

PO Box 110630  
Juneau, Alaska 99811-0630  
POSITION STATEMENT: Responded to questions during discussion of  
HB 180.

JACK F. BOWEN, Alaska Fast Pitch Softball Association (ph)  
11224 Via Balboa  
Anchorage, Alaska 99515-2909  
POSITION STATEMENT: Testified in support of HB 180.

MIKE KRIEBER, Staff  
to Representative Vic Kohring  
House Transportation Standing Committee  
Alaska State Legislature  
Capitol Building, Room 24  
Juneau, Alaska 99801  
POSITION STATEMENT: Presented HB 510 on behalf of the sponsor,  
the House Transportation Standing Committee.

AVES D. THOMPSON, Director  
Anchorage Office  
Division of Measurement Standards & Commercial Vehicle  
Enforcement  
Department of Transportation & Public Facilities (DOT&PF)  
12050 Industry Way  
Anchorage, Alaska 99515  
POSITION STATEMENT: Assisted with the presentation of HB 510  
and responded to questions.

FRANK DILLON; Executive Vice President  
Alaska Trucking Association, Inc.  
3443 Minnesota Drive  
Anchorage, Alaska 99503  
POSITION STATEMENT: Testified in support of HB 510.

AMY ERICKSON, Staff  
to Representative Lisa Murkowski  
House Labor and Commerce Standing Committee  
Alaska State Legislature  
Capitol Building, Room 408  
Juneau, Alaska 99801  
POSITION STATEMENT: Presented HB 246 on behalf of the sponsor,  
the House Labor and Commerce Standing Committee.

KATIE CAMPBELL, Actuary L/H  
Central Office, Division of Insurance  
Department of Community & Economic Development (DCED)

PO Box 110805

Juneau, Alaska 99811-0805

POSITION STATEMENT: Assisted with the presentation of HB 246 and responded to questions.

BRUCE GALE, Employee Benefit Consultant

Willis of Alaska, Inc.

4220 B Street

Anchorage, Alaska 99503

POSITION STATEMENT: Provided comments during discussion of HB 246.

CLYDE (ED) SNIFFEN, JR., Assistant Attorney General

Fair Business Practices Section

Civil Division (Anchorage)

Department of Law (DOL)

1031 West 4th Avenue, Suite 200

Anchorage, Alaska 99501-1994

POSITION STATEMENT: Presented HB 460.

#### **ACTION NARRATIVE**

TAPE 02-53, SIDE A

Number 0001

CHAIR NORMAN ROKEBERG called the House Judiciary Standing Committee meeting to order at 1:43 p.m. Representatives Rokeberg, Coghill, Meyer, and Berkowitz were present at the call to order. Representatives James and Kookesh arrived as the meeting was in progress.

#### HB 489 - CRUELTY TO ANIMALS

Number 0050

CHAIR ROKEBERG announced that the first order of business would be HOUSE BILL NO. 489, "An Act relating to cruelty to animals." [Before the committee was the proposed committee substitute (CS) for HB 489, version 22-LS1580\0, Luckhaupt, 4/18/02, adopted as a work draft on 4/19/02.]

Number 0060

REPRESENTATIVE MEYER moved to adopt the proposed committee substitute (CS) for HB 489, version 22-LS1580\S, Luckhaupt, 4/22/02, as a work draft. There being no objection, Version S was before the committee.

Number 0130

HEATHER M. NOBREGA, Staff to Representative Norman Rokeberg, House Judiciary Standing Committee, Alaska State Legislature, explained that in Version S, the "minimal standard" language was removed as requested; the provision making a second offense a felony was removed, thus cruelty to animals remains a class A misdemeanor; and, as suggested by the Department of Law (DOL), a provision was added stating that each instance of a violation is a separate violation, thus a single situation can result in multiple counts. She noted that members have been provided with a memo from the drafter detailing why he rejected the suggestion to move the special sentencing provisions to AS 12.55.

Number 0235

REPRESENTATIVE MEYER moved to report the proposed committee substitute (CS) for HB 489, version 22-LS1580\S, Luckhaupt, 4/22/02, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 489(JUD) was reported from the House Judiciary Standing Committee.

CHAIR ROKEBERG called an at-ease from 1:49 p.m. to 1:50 p.m.

HB 180 - BACKGROUND CHECK OF YOUTH WORKER

Number 0281

CHAIR ROKEBERG announced that the next order of business would be HOUSE BILL NO. 180, "An Act requiring child services providers to obtain criminal background checks for child services workers." [Before the committee was CSHB 180(HES).]

Number 0289

REPRESENTATIVE LESIL McGUIRE, Alaska State Legislature, sponsor, explained that HB 180 will update the statutes pertaining to licensing of foster homes, residential child care facilities, semi-secure residential child care facilities, secure residential psychiatric treatment centers, child placement agencies, and maternity homes, all of which are currently listed in AS 47.35.010. She observed that the legislature has already established a policy of protecting children through the use of background checks. She mentioned that this update will conform Alaska's statutes to the "Adoption & Safe Families Act" (ASFA),

which was passed by Congress and signed into law by President Clinton in 1997. She noted that the goal of the ASFA was to promote safety for the nation's children; Congress and the administration became concerned after hearing reports that children were being left in, or returned to, unsafe situations.

REPRESENTATIVE McGUIRE explained that the second part of HB 180 creates a task force that will research the topic of criminal background checks for other entities that provide services to or that have direct or immediate contact with children in Alaska. She said that she has been researching ways to better protect children who participate in various children's clubs and activities. She relayed that the concept of HB 180 originated when she learned that an individual with a history of sexual predation had molested a constituent's child. The task force created by HB 180 will analyze whether more can be done to protect children in areas other than the aforementioned institutions, and will be composed of five members of the legislature, four members of the public who are child service providers, and possibly commissioners or designees of certain administrative departments. Because of concerns about budgetary constraints, she added, rather than simply requiring background checks for all groups that perform services for children, the task force created by HB 180 will research the issue and provide a report to the legislature.

REPRESENTATIVE McGUIRE noted that a sectional analysis has been provided, adding that with the exception of a provision that will allow for the discretionary denial of licenses, there are no major policy changes in HB 180. Currently, a license is automatically denied if an individual has been convicted of certain crimes; this aforementioned provision - Section 4 - lists other crimes for which the department will have the discretion to deny a license. Section 4 allows the department to analyze whether a person should be issued a license if, within the preceding five years, that person has been convicted of the crimes listed therein. She mentioned that Section 1 allows the department to accept licenses issued by other entities that have state of federal licensing authority, and that this provision will facilitate placement.

Number 0801

CHAIR ROKEBERG asked Representative McGuire how "wedded" she was to the creation of the task force, and how the fiscal note could be zero.

REPRESENTATIVE McGUIRE said that fiscal note is zero because the plan is to use existing resources. In response to another question, she said that with HB 180, the Joint Committee on Administrative Regulation Review (JARR) is not creating new regulations; rather, the JARR will simply "look at the possibility that solving the problem may be addressed through regulations, ... through laws, or perhaps ... through ... something called the 'safe seal program' ... [which] is patterned after the Better Business Bureau."

REPRESENTATIVE MEYER said he supports HB 180.

Number 0966

JOANNE GIBBENS, Program Administrator, Central Office, Division of Family & Youth Services (DFYS), Department of Health & Social Services (DHSS), in response to a question, said that Section 3 outlines the federal requirements in terms of denial of licensure. There are two parts to Section 3, she explained: one part - subsection (a) - provides for the mandatory denial of a license if one has been convicted of any the crimes listed therein, and the other part - subsection (b) - provides for the mandatory denial of a license if one has been convicted within the previous five years of any the crimes listed therein. She noted that the federal law refers to felony convictions; therefore, to conform with the federal law, if there have been any felony convictions, the state is not allowed to issue a license.

CHAIR ROKEBERG noted that Sections 3 and 4 refer to the issuance of an initial license. He asked, "What if you already have a license?"

MS. GIBBENS explained that that circumstance is addressed in Sections 7, 8, and 10. For the first year, the state issues a provisional license, and at the end of that year, the division can authorize a biennial license, which must be renewed every two years. During the renewal process, a background check is performed again to ensure that none of the prohibited crimes have been committed. Also, if a provider discovers that an employee has committed one of the prohibited crimes, the provider must notify the department and take appropriate action.

REPRESENTATIVE McGUIRE referred to Section 13, and mentioned that it "comports with the federal-level effort at trying to get kids in safe places." Section 13, she offered, says that "you don't automatically have to shut down, putting those kids out of

a place to stay: if you're currently operating [a facility], and an employee discloses that serious offense and ... you take action to remove that employee, you can continue operating."

REPRESENTATIVE JAMES asked what other licensure requirements are there that specifically relate to a person's ability to "do the job." Are there any other criteria other than simply being free of criminal charges?

MS. GIBBENS said that there are extensive licensing regulations already in existence, both for foster homes and for residential care facilities, that specifically address other safety issues related to children, such as the type of facility, the size of the rooms, the type of treatment, and the type of discipline.

Number 1230

REPRESENTATIVE McGUIRE noted that AS 47.35.017 contains the statutory requirements for licensure of foster homes, residential child care facilities, semi-secure residential child care facilities, secure residential psychiatric treatment centers, child placement agencies, and maternity homes. She also noted that the department has promulgated regulations that dovetail with these statutory requirements.

REPRESENTATIVE JAMES remarked that her concern centers on what is required of the employees in those types of facilities.

MS. GIBBENS said that there are regulations governing employees' qualifications. There are certain requirements for training; the division prefers individuals to have at least a bachelor's degree, but that may be waived, since grantees are required to provide a certain level of training to staff.

REPRESENTATIVE JAMES said she is concerned about the requirements for people who work in child care centers, adding that it is unlikely that those employees will have bachelor's degrees. Aside from checking an individual's criminal record, she asked, what other protections are there with regard to how much those employees are required to know.

MS. GIBBENS asked to defer that question to the Department of Education and Early Development, which is the licensing authority for daycare programs. She noted that HB 180 does not have anything to do with child care workers in daycare centers.

REPRESENTATIVE COGHILL remarked that Section 2 refers to domiciliary services, and that this is another situation where "they've already done it and now we're going to put it in statute." He opined that the emergence of boarding schools and charter schools that provide boarding services has created the need for Section 2.

Number 1418

REPRESENTATIVE JAMES opined that there ought to be a broader application of the protections offered in [HB 180], so that they also pertain to child care facilities offering daycare. She reiterated that she wants to know "what kind of training these people have."

REPRESENTATIVE McGUIRE offered that she does have another proposal for a bill that would address the issues raised by Representative James.

REPRESENTATIVE BERKOWITZ opined that the proposed language in Section 5 appears to be somewhat of a retreat from the protections that children currently enjoy, because under existing statute, licenses can be pulled if someone is arrested for, charged with, or convicted of a serious offense, whereas the proposed language stipulates that a license can only be pulled if someone is convicted of a crime listed in proposed AS 47.35.19(a). So even if there is probable cause to believe that someone has committed any of these crimes, the protections that currently exist would be taken away. He offered that although the language proposed in Section 5 refers to a more discrete list and is preferable to simply saying "a serious offense", he would also like to see the insertion of "been indicted for or convicted of" after "has" on page 4, line 25. He indicated that he does not mind if the new language does not refer to the arrest stage, since arrests are sometimes "charged high or there might not be proof to bear it out." Whereas with an indictment, he noted, at least it's gone through a modicum of process: "it's a felony, a grand jury's heard it, there's been some vetting."

REPRESENTATIVE McGUIRE said she would consider Representative Berkowitz's suggestion to be a friendly amendment, adding that it would make the bill stronger.

Number 1597

REPRESENTATIVE BERKOWITZ made a motion to adopt Amendment 1 on page 4, line 25: After "has" delete "a conviction for", and insert "been indicted for or convicted of". There being no objection, Amendment 1 was adopted.

REPRESENTATIVE BERKOWITZ then noted that the task force to be established by HB 180 appears to be focusing on a fairly discrete question. He said: "I was wondering if there's any other research on whether sufficient criminal background checks exist, and have we done any budget audits? Are there a rash of complaints? I was sort of wondering what the empirical evidence is, that we're starting with today."

REPRESENTATIVE MCGUIRE replied that her staff has done extensive research regarding what other states have done, and that there have not been any budget and audit reports done because this isn't currently an area that requires licensure. She offered that establishing the task force involves making a fundamental policy change regarding whether to step into an area that doesn't currently require licensure, such as when a parent takes a child and puts him/her under the direct supervision of an adult in a volunteer situation. She said that there is a lot of evidence showing that there are problems in this area. She offered that such evidence "comes from the community," adding that she has received over 100 e-mails from people in the community whose children have been victimized, sometimes by people who are prior offenders. At issue, she said, is that sexual predators tend to seek out opportunities where they have direct contact and control over children.

REPRESENTATIVE BERKOWITZ noted that [the task force] has a zero fiscal note, adding that to "make things go away," it requires an act of legislative legerdemain. He asked how that came to pass.

REPRESENTATIVE MCGUIRE reiterated that she, in collaboration with the department, has decided to use existing resources.

REPRESENTATIVE BERKOWITZ said he has a concern regarding the constitutionality of the first sentence in subsection (b) of Section 14, located on page 9, lines 2 and 3. He elaborated: "In essence, we are passing an act of specific legislation for an individual - that would be the chair of the [Joint Committee on Administrative Regulation Review]."

REPRESENTATIVE McGUIRE offered that instead, the language could simply say, "the task force shall be appointed by the Speaker of the House [of Representatives]."

Number 1785

REPRESENTATIVE BERKOWITZ made a motion to adopt Amendment [3]:

To delete the line beginning "The" and ending "force" on page 9 [lines 2 and 3]. And then the [commensurate] change would be on line 4: instead of "two additional members", it would read "three members of the House".

REPRESENTATIVE McGUIRE offered an amendment to Amendment [3]: "one of which who will chair".

REPRESENTATIVE JAMES asked [of the report], "Is it going to get done this summer?"

REPRESENTATIVE McGUIRE said that [lines 18 and 19] stipulate that the recommendations will be presented to the legislature in a written report by January 21, 2003. She said she would agree to an amendment changing the date to February 21, 2003.

Number 1862

REPRESENTATIVE MEYER made a motion to adopt Amendment 2, on page 9, line 19: Delete "January" and insert "February".

REPRESENTATIVE BERKOWITZ asked: "What happens to legislative members who are on the [task force] once there's a new legislature?"

CHAIR ROKEBERG noted that the change being discussed pertains to when the report is due.

REPRESENTATIVE JAMES suggested that perhaps those legislators would become public members.

REPRESENTATIVE BERKOWITZ questioned that possibility.

REPRESENTATIVE McGUIRE noted that HB 180 does not specifically require a legislator to present the report. She said that she envisions that the task force will be doing the bulk of its work during the interim.

Number 1910

CHAIR ROKEBERG noted that there were no objections to Amendment 2. Therefore, Amendment 2 was adopted.

Number 1946

REPRESENTATIVE BERKOWITZ restated his motion to adopt Amendment 3: After deleting all of the first sentence in subsection (b) on page 9, it should read: "The speaker of the House of Representatives shall appoint three members of the House as voting members, one of whom shall serve as chair".

REPRESENTATIVE JAMES said she has concern with that amendment because there will be three Representatives and only two Senators, which doesn't seem balanced.

REPRESENTATIVE BERKOWITZ indicated that the language also ought to stipulate that a member of the minority be on the task force.

CHAIR ROKEBERG noted that that is typically the case.

REPRESENTATIVE McGUIRE added that that is her intention as well.

Number 2025

CHAIR ROKEBERG restated Amendment 3, and noted that there were no objections to the adoption of Amendment 3. Therefore Amendment 3 was adopted.

Number 2040

REPRESENTATIVE JAMES made a motion to adopt Amendment 4, to have only two members of the House appointed to the task force.

REPRESENTATIVE BERKOWITZ objected.

REPRESENTATIVE McGUIRE explained that originally, the task force was set up to have an even number of voting members; because of concerns expressed in another committee, however, the language was changed to allow for an odd number of voting members - five legislative members and four public members.

Number 2118

REPRESENTATIVE JAMES, after some discussion regarding possible membership makeup, made a motion to adopt Amendment 4, which she

restated as providing that the Speaker of the House shall appoint two members from the House, that the President of the Senate shall appoint two members from the Senate, that there shall be five public members, and that the task force shall appoint its own chair.

Number 2144

CHAIR ROKEBERG made a motion to amend Amendment 4 such that each body of the legislature appoint [a member from the majority caucus and a member from the minority caucus] for a total of four members. There being no objection, the amendment to Amendment 4 was adopted.

REPRESENTATIVE JAMES, for clarification, indicated that the Speaker of the House and the President of the Senate shall, together, appoint the public members.

Number 2193

CHAIR ROKEBERG noted that there were no objections to Amendment 4, as amended. Therefore, Amendment 4, as amended, was adopted.

[For the benefit of the reader, the end result is that Amendment 3 merely deletes the first sentence of subsection (b) on page 9, and Amendment 4, as amended, addresses the appointment to and the composition of the task force.]

CHAIR ROKEBERG asked whether HB 180 only applies to licensure of new facilities.

MS. GIBBENS indicated that HB 180 addresses licensure of existing facilities, noting that currently such facilities have to go through a licensure procedure. The only thing new, she remarked, is the addition of boarding schools, which are not currently explicitly addressed in statute.

Number 2223

JACK F. BOWEN, Alaska Fast Pitch Softball Association (ph), testified via teleconference. He said that his organization requires that a background check be run on individuals prior to their being allowed to work with youth. He opined that HB 180 is a step in the right direction, and that one of the best things about it is the formation of the task force, which will be able to present information to the legislature regarding

other areas that need to be looked at with regard to licensing and background checks.

REPRESENTATIVE JAMES commented that someday, background checks may have to be performed on everyone who works with or around children, although such a requirement may not necessarily need to be legislated.

CHAIR ROKEBERG closed the public hearing on HB 180.

REPRESENTATIVE MEYER said he agrees with Representative James: everyone who works in the field of daycare should have a background check.

REPRESENTATIVE JAMES said that it is not so much that a person's criminal history would preclude him/her from working in this field, as it is that people should be made aware of what an individual's history is.

MS. GIBBENS, in response to a question, noted that HB 180 does not apply to private daycare centers, although the Department of Education and Early Development has extensive, existing statutes that address background checks for licensed child care centers.

REPRESENTATIVE MCGUIRE, in response to a question, said that she is not familiar with those particular statutes, but posited that they are probably similar to DHSS's statutes regarding crimes that disqualify a person from working in a given field. To clarify, she reiterated that via HB 180: "We are updating the licensing requirements for foster homes, residential child care facilities, semi-secure residential child care facilities, secure residential psychiatric treatment centers, child placement agencies, [and] maternity homes."

CHAIR ROKEBERG called an at-ease from 2:34 p.m. to 2:35 p.m.

Number 2372

REPRESENTATIVE MEYER moved to report CSHB 180(HES), as amended, out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, CSHB 180(JUD) was reported out of the House Judiciary Standing Committee.

CHAIR ROKEBERG called an at-ease from 2:36 p.m. to 2:37 p.m.

HB 510 - COMMERCIAL MOTOR VEHICLES:REGULATIONS

TAPE 02-53, SIDE B  
Number 2380

CHAIR ROKEBERG announced that the next order of business would be HOUSE BILL NO. 510, "An Act relating to the regulation of commercial motor vehicles to avoid loss or withholding of federal highway money, and to out-of-service orders concerning commercial motor vehicles; amending Rule 43.1, Alaska Rules of Administration; and providing for an effective date."

Number 2375

MIKE KRIEBER, Staff to Representative Vic Kohring, House Transportation Standing Committee, Alaska State Legislature, said, on behalf of the sponsor, the House Transportation Standing Committee (HTRA), that the Department of Transportation & Public Facilities (DOT&PF) requested the introduction of HB 510. He indicated that HB 510 is intended to complete Executive Order 98 by transferring from the Department of Public Safety (DPS) to [the DOT&PF] the authority to promulgate regulations pertaining to the transportation of hazardous materials.

Number 2324

AVES D. THOMPSON, Director, Anchorage Office, Division of Measurement Standards & Commercial Vehicle Enforcement, Department of Transportation & Public Facilities (DOT&PF), testified via teleconference. He said:

We're the folks that operate the weigh stations, issue permits, conduct driver/vehicle safety inspections, et cetera. As Mr. Kriebler mentioned, [HB 510], as proposed, completes the consolidation of truck size, weight, ... safety, and permitting regulatory programs that was started with Executive Order 98 at the beginning of fiscal year [FY] 98. Most of the authority to effectively operate the truck, size, weight, ... safety, and permitting programs was given at the time to the department. The authority to promulgate regulations for driver/vehicle safety requirements and hazardous materials transport was not transferred and currently resides in the Department of Public Safety. House Bill 510 transfers that authority to the [DOT&PF]....

The hazardous materials transport regulations deal with notification, movement, labeling, and documentation of hazardous materials loads. Federal law requires that the state commercial motor vehicle safety regulations be no less stringent than federal law or regulations; under 49 U.S.C. 31141, state commercial motor vehicle regulations are preempted if the Secretary of Transportation finds that state commercial motor vehicle regulations are less stringent. In the past, Alaska has avoided that result by incorporating, by reference, the federal motor carrier safety regulations, which provide equipment standards, working conditions for drivers, and vehicle inspection standards. Federal law also requires that hazardous materials transport regulations be compatible with federal law. Again, Alaska has avoided preemption by incorporating, by reference, the federal motor carrier hazardous materials transport regulations.

Number 2235

MR. THOMPSON continued:

Alaska has not received any formal sanctions from the Federal Motor Carrier Safety Administration [FMCSA] on our currently outdated driver/vehicle and hazardous materials transport regulations. At the present time, Alaska's regulations in this area ... incorporate, by reference, the federal regulations as they existed in 1995. We have new regulation drafts prepared and ready to go through the adoption process as soon as this legislative change is effective.

In summary ..., passage of [HB 510] completes the transfer of the regulatory authority over commercial ... motor vehicles to DOT&PF. It is in the best interest of the state, and the trucking industry, for this transfer to occur, because the people responsible for the adoption of the commercial motor vehicle safety and hazardous materials transport regulations will also be enforcing the standards. With the changes made through [HB 510], the trucking industry can realize the objective of "one-stop shopping" in terms of commercial vehicle operations.

REPRESENTATIVE COGHILL asked if, in adopting HB 510, the federal laws would still be adopted by reference.

MR. THOMPSON said yes.

REPRESENTATIVE COGHILL asked whether, via adoption of HB 510, the state's regulations will become too rigid to accept changes in the federal regulations.

MR. THOMPSON replied:

The problem here is that the [DOT&PF] does not have the authority to promulgate these regulations, and the [DPS] had promulgated the set that is currently enforced. And when ... we assumed that in Executive Order 98 that that authority had come along with it, when we went to adopt the later version of the federal motor carrier safety regulations, we learned that we in fact did not have the authority. What this piece of legislation does is to correct that deficiency.

REPRESENTATIVE COGHILL surmised, then, that currently there are federal regulations and the state will be adopting those regulations into state statute.

MR. THOMPSON said that is correct, with some modifications, though.

Number 2133

FRANK DILLON, Executive Vice President, Alaska Trucking Association, Inc., testified via teleconference in support of HB 510. He said that HB 510 is truly a housekeeping mechanism; it is truly something that should have been done with the exercise of Executive Order 98, and it only affects a very small portion of trucks in Alaska. The nature of the freight determines whether a truck is involved in interstate commerce. Most trucking activity involves freight that arrives by ship or barge, or comes up the highway; this freight, therefore, is already covered by the federal regulations as revised October, 2001. Thus most trucking companies are already complying with regulations that are as stringent as state regulations will be once they are adopted. He noted, however, that a small percentage of drivers might make the argument that the federal regulations that are more stringent, in particular those found on page 2 of HB 510 regarding the consumption of alcohol or

other substances, have never been adopted by the state. He urged members to move quickly on this issue.

MR. DILLON, in response to a question, noted that the provisions regarding alcohol and other substances, found in Section 2 of HB 510, have changed substantially in the federal code since 1995, and although many provisions have been adopted via reference, HB 510 will allow for the adoption of state regulations that will be more in tune with federal regulations, particularly with regard to hazardous materials issues. In response to another question, he indicated his belief that provisions regarding commercial motor vehicle impairment are currently located in Title 28. He added that while it is an offense to drive a commercial vehicle with a breath alcohol concentration (BAC) of .04, the actual dispatch of a driver is prohibited if there is even a hint of alcohol on the driver's breath.

REPRESENTATIVE JAMES asked Mr. Dillon whether he is comfortable with the regulations that will be promulgated once HB 510 becomes law.

MR. DILLON said he is comfortable with what will be promulgated, and confident in the public process should there be anything that still needs to be addressed once the regulations are ready for public comment. He added that his organization has a very close working relationship with the [DOT&PF], and has pushed very strongly for the tightest safety regulations that can be provided for under the law, and those currently are the federal standards.

Number 1943

REPRESENTATIVE JAMES moved to report HB 510 out of committee with individual recommendations and the accompanying zero fiscal note.

REPRESENTATIVE BERKOWITZ commented: "I've been sitting in these chambers for a long time, and it always befuddles me how Representative Kohring can move to adopt federal regulations; I thought that was incompatible with his ten-point plan of the universe."

Number 1906

CHAIR ROKEBERG noted that there were no objections to the motion. Therefore, HB 510 was reported from the House Judiciary Standing Committee.

CHAIR ROKEBERG called an at-ease from 2:47 p.m. to 2:50 p.m.

HB 246 - OMNIBUS INSURANCE BILL

Number 1900

CHAIR ROKEBERG announced that the next order of business would be HOUSE BILL NO. 246, "An Act relating to confidentiality of records and to cease and desist orders of the division of insurance, to insurance company investments, to unauthorized insurers, to surplus lines insurance, to health insurance, to life insurance, to annuity insurance, to consumer credit insurance, to title insurance, and to hospital and medical service corporations; and providing for an effective date." [Before the committee was CSHB 246(L&C).]

Number 1889

AMY ERICKSON, Staff to Representative Lisa Murkowski, House Labor and Commerce Standing Committee, Alaska State Legislature, said, on behalf of the sponsor, the House Labor and Commerce Standing Committee, that HB 246 makes corrections and clarifications to the insurance statutes. She elaborated:

The main areas addressed are: regulatory structure of multiple [employer] welfare arrangements [MEWAs]; confidentiality of records; late payments for premium taxes; annual fees to operate joint insurance arrangements; revisions to property-casualty guaranty fund assessments; and stop-loss insurance standards. This is non-controversial; we've had no opposition in the process, and the Division of Insurance can testify to that as well.

CHAIR ROKEBERG noted that there is a proposed amendment, hereafter known as Amendment 1, which read [original punctuation provided]:

Page 9, Line 6:

Insert a new bill section to read:

**\*SEC. 23.** AS 21.27.330(b) is amended to read:

(b) If a licensee that is a firm transacts business at more than one place of business, [IN THIS STATE], the licensee shall pay a license fee or each place of business that transacts business in this

**state or relative to a subject resident, located or to be performed in this state.**

Number 1849

KATIE CAMPBELL, Actuary L/H, Central Office, Division of Insurance, Department of Community & Economic Development (DCED), said that [Amendment 1] corrects a drafting error in legislation passed last year, clarifying that any branch office that is actually transacting business in Alaska shall pay a licensing fee.

CHAIR ROKEBERG noted that [Amendment 1] will affect the statute related to the Gramm-Leach-Bliley Act (GLBA).

MS. CAMPBELL confirmed this, adding that last year's bill changed the provision so that instead of every single branch location being licensed, it would just be the main office that receives a license, and then the branch offices would pay a fee. The intent was to not change the fee structure, but the words "in this state" were mistakenly added, and this created some interpretation problems; [Amendment 1] removes that language.

CHAIR ROKEBERG asked Ms. Campbell to explain to the committee what a MEWA is and why there is substantial language pertaining to MEWAs.

MS. CAMPBELL said:

A multiple employer welfare arrangement [MEWA] is ... defined under ... federal ERISA [Employee Retirement and Income Security Act of 1974] laws, and it's basically [when] two or more employers can get together and form a pool for purposes of issuing or offering health insurance coverage to their employees. And under our current regulatory structure, those [MEWAs] would have to be licensed as insurance companies, and there's quite onerous standards there: they'd have to have \$2 million in capital and surplus, which is quite high; there's financial reporting requirements; reserving requirements; and things that just don't make sense for that entity. And so what this bill does is it sets up an appropriate regulatory structure for them, to encourage them to operate in the state and provide a little bit of competition and ability for the employers to pool for health insurance purposes.

Number 1729

REPRESENTATIVE JAMES asked Ms. Campbell if she is saying that these employers come together and become the insurer.

MS. CAMPBELL said that if [employers] self fund, that is true; they form these arrangements and they become an insurer. She noted that some employers actually go out and purchase an insurance policy to cover the plan.

REPRESENTATIVE JAMES opined that being an insurer is a lot different than purchasing something from a licensed insurer. She asked why these employers that become insurers don't need a license, since [regular] insurers must be licensed.

MS. CAMPBELL said: "They would need a license, and that's what this is setting up; it's a separate chapter that deals with that specific type of business that they're engaging in."

CHAIR ROKEBERG mentioned that there is a MEWA being formed in Fairbanks now. What this is, he added, is a group of businesses getting together and becoming, basically, an underwriter, and "we would like to be able to encourage that"; thus these provisions have been included in HB 246. Unfortunately, the division currently has to look at this group as if it were a full-blown insurance underwriter, which requires meeting very high solvency standards. He asked whether the Division of Insurance is going to be promulgating regulations, or if HB 246 contains the standards.

MS. CAMPBELL said that the standards would be in the bill.

CHAIR ROKEBERG mentioned that the solvency standard will be lowered to \$200,000, which is a huge difference, with the intent of encouraging MEWAs to form and essentially become their own underwriters.

REPRESENTATIVE JAMES mentioned that she would like to encourage that as well; "we have a real struggle with people not even being insured at all." However, she remarked, she doesn't know where the controls are for the financial requirements that determine whether a group can function as a MEWA. She opined that there ought to be some requirement that a group show it can follow through with the plan it engages in.

Number 1618

MS. CAMPBELL said that the provisions in proposed AS 21.85 will create a new chapter in statute for MEWAs. This proposed chapter lays out very specific requirements regarding licensing, financing, certification by an actuary, stop-loss insurance, and financial reporting.

REPRESENTATIVE COGHILL asked about the provision regarding membership for MEWAs in the Comprehensive Health Insurance Association.

MS. CAMPBELL said that that provision was added because "if we have a separate license for [MEWAs], they wouldn't be considered a member as an insurer, so we have to mention them separately as a member." Thus MEWAs would be assessed for the Comprehensive Health Insurance Association as well, she added.

CHAIR ROKEBERG referred to the stop-loss insurance provisions [Section 35] located on page 13. He asked why the entities listed therein may not issue a stop-loss insurance policy "that has an annual attachment point of claims incurred for each individual that is lower than \$10,000".

MS. CAMPBELL replied:

If you have a self-funded or a self-insured employer, and they're taking the risk and paying for health claims directly, they will go out and buy a stop-loss insurance policy to cover excess losses. So if there's excessively large claims, or [an] excessive number of claims, they have insurance to cover themselves.... This is saying, for any particular individual, if they have a loss over \$10,000, the insurance would kick in to protect the employer because they don't want to take as much risk. And when that drops down too low, you end up having a situation where it's basically health insurance they're purchasing instead of excess loss insurance.

Number 1476

CHAIR ROKEBERG said: "But you could have a plan ... that ... didn't kick in until [\$5,000] or \$10,000, if you offered that as part of your menu selection to employees, for example, where you had a deductible that was [\$5,000 or \$10,000], to lower the cost."

MS. CAMPBELL indicated that situation would not be affected by the provision in Section 35.

CHAIR ROKEBERG remarked that about the only way people can afford to have insurance anymore is to have high deductibles.

REPRESENTATIVE JAMES, referring to lines 18 and 19 of page 13, asked whether there are any health maintenance organizations licensed under AS 21.86.

MS. CAMPBELL said that currently there are none, but noted that the statutory language is in place should any ever form in the future.

CHAIR ROKEBERG remarked that so much legislation has been adopted regarding HMOs (health maintenance organizations), it is unlikely that any ever will form in Alaska. He added, "I wish we had an HMO as another alternate form of health care services in the state."

REPRESENTATIVE JAMES indicated that she is not in favor of HMOs because of their behavior.

CHAIR ROKEBERG said:

They're ... not all bad guys. Let's blame the U.S. Congress for our health care problem, because they won't reimburse Medicare and Medicaid to a reasonable point, and that's what's called the phantom health tax in this country, and that's the problem in this country; it's not so much the HMOs or the health care providers - it's our politicians.

Number 1352

BRUCE GALE, Employee Benefit Consultant, Willis of Alaska, Inc., testified via teleconference. He said:

I would like to talk to the committee about, first, the provisions concerning stop-loss insurance, on page 13. And I believe the aggregate attachment point requirements in today's hard stop-loss market are somewhat unrealistic. For the past two years, it has been almost impossible to find an aggregate attachment point of 120 percent, for any large employer. The lowest we have been able to obtain in the marketplace is 120 percent. And I notice that [paragraph (3)] for

a large employer is lower than 110 percent of expected claims. We have not been able to obtain those kinds of aggregate attachment points for the last three years in the stop-loss market.

The number of carriers that are offering stop-loss insurance, both specific and aggregate - nationwide, not just in the state of Alaska - to employers of under 1,000 lives, has shrunk considerably. Those insurance carriers that are offering stop-loss insurance to these types of MEWA arrangements are very few. Right now I believe we have two alternatives - ... possibly three - in the state, where we could approach them for such insurance coverage. I appreciate that the legislature or the [Division] of Insurance is trying correct some deficiencies ... in earlier drafted legislation.

I would like to remind the committee that there is current Alaskan insurance law that allows for banding together of various groups or employers strictly for the purpose of insurance to be outside the law, ... [but] there must be some other commonality in those groups - an association, a professional association, et cetera. I would also like to state that in most of the MEWA arrangements that I have been involved in, these arrangements are operated through a 501(c)(9) trust, which is a tax-exempt trust under the IRS [Internal Revenue Service] regulations. These trusts are governed by a board of trustees that are held to a fiduciary requirement - or standard - by ERISA. They purchase ERISA-required bonding. They are required to provide an annual statement - certified statement - by an auditor. They hire, as a matter of course, a trust auditor, a trust attorney, and a trust consultant.

Number 1190

MR. GALE referred to proposed SEC. 21.85.060 found on page 30, line 29, which read in part:

Investments. A multiple employer welfare arrangement shall maintain an amount at least equal to 85 percent of net unpaid claim liability in ... cash and ... equivalents; ... fully insured portion of a bank deposit when the insurance is provided by a solvent

agency of the United States government ...; a bank certificate of deposit ...; ... savings account...."

MR. GALE said, "I believe what we're talking about here is what in the industry is known as 'incurred but no reported claims liability (IBNR),' " defined as those claims that were incurred prior to the termination date of the coverage, but presented for payment afterwards; those claims would be covered by this reserving. Referring to line 27 of page 30, which says, "30 percent of unpaid claim liability", he stated:

I don't quite understand what that means. I believe a sufficient IBNR reserve should be in the area of 25 percent of annual health claims. And even that, in today's market, would be considered a rather conservative reserving amount, as today claims tend to turn much quicker than they have in the past. But I would like some clarification of the amount of reserves to be established and the 85 percent. I assume what the [division] would like to have is confirmation that, in fact, these cash reserves exist and are available to the trust.

CHAIR ROKEBERG referred back to the stop-loss provisions on page 13. He asked Mr. Gale if the 120 percent and the 110 percent were the only figures that he took issue with, and if he could recommend any other percentages instead.

MR. GALE said: "I would change those numbers to '125 percent of expected claims', for both line 27 and line 31."

CHAIR ROKEBERG requested confirmation that this suggestion "has to do with attainability and you're having difficulty even getting those numbers."

MR. GALE said yes; "I would state that that is almost an impossibility in today's marketplace as opposed to just difficult," he added.

CHAIR ROKEBERG asked Mr. Gale whether he had any problems with the other provisions regarding the "attachment point numbers."

Number 1003

MR. GALE said:

I would have to work those out. Four thousand dollars seems, just as a gut reaction, to be relatively low. In Alaska, our costs tend to run higher than most states in the Lower 48. The \$20,000, of course, would depend upon the number of people covered by the trust, and I would venture to say that a \$20,000 figure might be adequate for three or four people. And the cost associated with establishing and maintaining a MEWA - that's a totally unrealistic figure, in my opinion.

CHAIR ROKEBERG asked Mr. Gale to clarify which figure he is referring to regarding MEWAs.

MR. GALE said:

The figure on line 29 [of page 13], the \$20,000 for [an] expected claim figure, which I assume is what that number refers to. Mr. Chairman, it appears to me ... the regulations for the proposed bill [are] trying to say ... that the aggregate attachment point would be \$4,000 times the number of individuals - my copy has a typo; I assume that's "of", not "if" - covered under the health benefit plan. In other words, we would have a hard-dollar figure for the maximum claims paid per individual per year under the policy, and that number would depend entirely upon the benefits that are actually covered by the aggregate insurance.

Some self-funded clients elect to cover only medical and prescription drugs, while others would include medical, prescription drugs, dental and vision claims, so that number would be suspect. And I believe, since that would result to less than some \$350 - \$375 per employee per month, that appears low to me. The number shown under [subparagraph] (C) in line 29 appears to be an alternative, saying that the aggregate stop-loss attachment point, overall for a year for a group, would be \$20,000. This again, to me, would be an extremely low number, and probably there should not be a reference to an overall minimum or maximum because this would depend entirely upon the number of people covered by that policy.

Number 0877

MS. CAMPBELL, in response, said:

These are actually minimums, so if the availability in the market is that you can't get anything under 125 [percent], this is not saying that you have to have these. This is just saying, if you could get that, you can't get any lower than what is here; it's trying to prevent something from becoming health insurance. The other point is that these figures ... and these provisions are based off of a National Association of Insurance Commissioners' model law, and that was highly debated on the national level, and there was an actuarial firm that they had hired to look at these limitations to make sure that they were reasonable. And when you have, in the first part, a small employer - ... someone with 2 to 50 employees - you could have a small group out there with 2 employees. And that's why there's a \$20,000 minimum, because it wouldn't make any sense to say \$4,000 times 2 and say you could have [an] \$8,000 aggregate stop-loss limit. So, ... it's the [lower] of the greater of all of those.

CHAIR ROKEBERG asked Ms. Campbell to comment on Mr. Gale's remarks regarding pages 30 and 31.

MS. CAMPBELL said:

In [regard] to the 30 percent of unpaid claim liability in the minimum reserving section on page 30, line 27, there's ... an "or" there to allow for a different amount if it's certified by an actuary that that's the appropriate reserve level. So we felt like we've covered that; that 30 percent may be ... perhaps more conservative than 25 [percent], but if it's certified by an actuary that you can have something less than that and that's appropriate, then it would be okay. The investment section is basically saying what types of securities you have to put your money in, so that you can feel safe that you're actually going to have the money if ... and when you need it.

Number 0731

REPRESENTATIVE BERKOWITZ, referring to the minimum reserve provision, noted that reserves must equal the greater of either 30 percent of the unpaid claim liability or the amount recommended and certified by a qualified actuary.

MS. CAMPBELL indicated that she stands corrected; it is the greater of those two amounts, rather than the lower.

CHAIR ROKEBERG suggested changing the amount [on line 27 of page 30] to 25 percent, as recommended by Mr. Gale. He asked Ms. Campbell to comment.

REPRESENTATIVE BERKOWITZ noted that this recommendation comes from only one person.

MS. CAMPBELL said that according to her understanding, on a nationwide basis, a lot of MEWAs have struggled financially, and that is why the states have been given specific authority to regulate them; it's because they have gone under and left people without health insurance and with unpaid claims. The reserves are intended as a safety valve, she explained, to make sure that MEWAs have the money necessary to pay claims.

REPRESENTATIVE BERKOWITZ noted, "It seems to me [that] the consequence ... of not having ... [reserves] at all, is that ... then you run the risk of ... not having any insurance at all."

CHAIR ROKEBERG asked: "Why not allow for a small section of equity investments in their whole portfolio?"

MS. CAMPBELL pointed out that proposed Sec. 21.85.060 only specifies how 85 percent of net unpaid claim liability is invested; the other 15 percent of that liability could be invested in other ways.

REPRESENTATIVE BERKOWITZ asked why is it 85 percent? Where does this [number] come from?

MS. CAMPBELL said, "Much of this is based off of existing state laws that have MEWA laws on the books, and that provision - ... that percentage - came from Montana; ... they've had ... [MEWA] laws on their books for some time and haven't had any issues with it."

CHAIR ROKEBERG asked if the division stipulates the percentage of investment and the method of investment for other regulated insurers.

Number 0557

MS. CAMPBELL said, "Yes, we do; in fact, ... last year the legislature passed HB 184, and then regulations were adopted

specifically to insurance company investments, telling them where they can put their money."

REPRESENTATIVE BERKOWITZ said that it seem to him that "the lower you go, the more people get insured; ... the lower these numbers are, the more MEWAs could exist."

MS. CAMPBELL asked Representative Berkowitz if he is talking about the reserving levels.

REPRESENTATIVE BERKOWITZ said yes.

MS. CAMPBELL replied: "It's just the lower amount of money they actually have to have sitting there to pay claims when they need it. I don't know that that means that more people could afford it."

CHAIR ROKEBERG said: "This is the degree [of] risk you want to have on ... the retained capital base."

REPRESENTATIVE BERKOWITZ offered that he did not know whether "this is as low [or as high] as you can prudently go, for the degree of risk."

CHAIR ROKEBERG indicated that he is surmising from the testimony that the department is taking a conservative stance because of the failure rate of the MEWAs. On the other hand, he added, "we want to try to encourage them too."

Number 0420

REPRESENTATIVES BERKOWITZ and JAMES made a motion to adopt Amendment 1. There being no objection, Amendment 1 was adopted.

Number 0413

REPRESENTATIVE JAMES moved to report CSHB 246(L&C), as amended, out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, CSHB 246(JUD) was reported from the House Judiciary Standing Committee.

HB 460 - ANTITRUST CIVIL COURT ACTIONS

Number 0375

CHAIR ROKEBERG announced that the last order of business would be HOUSE BILL NO. 460, "An Act relating to actions for monopolies and restraint of trade, including proof of damages; amending Rule 82, Alaska Rules of Civil Procedure; and providing for an effective date."

CHAIR ROKEBERG offered that HB 460 "allows us to participate in large ... 'interstate antitrust cases' such as the tobacco settlement, which we are now prohibited from so doing."

Number 0330

CLYDE (ED) SNIFFEN, JR., Assistant Attorney General, Fair Business Practices Section, Civil Division (Anchorage), Department of Law (DOL), testified via teleconference and said:

This bill will allow the attorney general to bring claims on behalf of consumers who make these indirect purchases. We've been directly involved in several lawsuits where the inability to have this authority has resulted in the loss of significant sums of money. Last year we lost about \$700,000 in a case we felt - I'm involved with three other cases right now involving drug manufacturers - that if we had the ability to bring these types of claims, would certainly increase the likelihood that we would recover more money. So it's something that's in line with what other states have been doing, it's not going to increase the cost of doing business from our office, and it's something [that] I think would result in significant resources for consumers.

Number 0235

REPRESENTATIVE JAMES moved to report HB 460 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 460 was reported from the House Judiciary Standing Committee.

#### **ADJOURNMENT**

Number 0206

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 3:23 p.m.