

**ALASKA STATE LEGISLATURE**  
**HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

March 14, 2001

3:20 p.m.

**MEMBERS PRESENT**

Representative Lisa Murkowski, Chair  
Representative Andrew Halcro, Vice Chair  
Representative Kevin Meyer  
Representative Pete Kott  
Representative Norman Rokeberg  
Representative Harry Crawford  
Representative Joe Hayes

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 121

"An Act relating to the issuance of qualified charitable gift annuities."

- MOVED CSHB 121(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 80

"An Act relating to the hours during which sale of alcohol and entry on licensed premises is allowed; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 106

"An Act relating to the authorizations for state financial institutions; relating to confidential financial records of depositors and customers of certain financial institutions; relating to the Alaska Banking Code, Mutual Savings Bank Act, Alaska Small Loans Act, and Alaska Credit Union Act; and providing for an effective date."

- BILL HEARING POSTPONED

**PREVIOUS ACTION**

BILL: HB 121

SHORT TITLE:CHARITABLE GIFT ANNUITIES  
SPONSOR(S): REPRESENTATIVE(S)MURKOWSKI

Jrn-Date	Jrn-Page		Action
02/09/01	0281	(H)	READ THE FIRST TIME - REFERRALS
02/09/01	0281	(H)	L&C, JUD
02/14/01	0328	(H)	COSPONSOR(S): STEVENS
03/14/01		(H)	L&C AT 3:15 PM CAPITOL 17

BILL: HB 80

SHORT TITLE:LEGAL HOURS FOR SALE OF ALCOHOL  
SPONSOR(S): REPRESENTATIVE(S)OGAN

Jrn-Date	Jrn-Page		Action
01/19/01	0129	(H)	READ THE FIRST TIME - REFERRALS
01/19/01	0129	(H)	L&C, FIN
03/14/01		(H)	L&C AT 3:15 PM CAPITOL 17

**WITNESS REGISTER**

FRANK MINTON, Vice President  
American Council of Gift Annuities  
No address provided  
POSITION STATEMENT: Testified on HB 121.

JEROME SELBY  
Providence Alaska Foundation  
Providence Medical Center  
3200 Providence Drive  
Anchorage, Alaska 99508  
POSITION STATEMENT: Testified on HB 121.

JON CALDER  
Providence Alaska Foundation  
Providence Medical Center  
3200 Providence Drive  
Anchorage, Alaska 99508  
POSITION STATEMENT: Testified on HB 121.

CLAUDIA BIEBER  
Alaska Native Heritage Center  
8800 Heritage Center Drive  
Anchorage, Alaska 99506  
POSITION STATEMENT: Testified in favor of HB 121.

GLORIA GLOVER, Chief Financial Examiner  
Division of Insurance  
Department of Community & Economic Development  
3601 C Street  
Anchorage, Alaska 99503  
POSITION STATEMENT: Testified on HB 121.

DAVID STANCLIFF, Staff  
to Representative Scott Ogan  
Alaska State Legislature  
Capitol Building, Room 108  
Juneau, Alaska 99801  
POSITION STATEMENT: Introduced HB 80 on behalf of the sponsor.

MIKE LOHMAN, Owner  
Wasilla Bar  
P.O. Box 874907  
Wasilla, Alaska 99687  
POSITION STATEMENT: Spoke on HB 80.

JOAN DIAMOND, Public Health Representative  
5700 Rabbit Creek Road  
Anchorage, Alaska 99506  
POSITION STATEMENT: Spoke in support of HB 80.

MARTI GREESON, Executive Director  
Mothers Against Drunk Driving (MADD)  
550 West 7th Avenue, Number 540  
Anchorage, Alaska 99503  
POSITION STATEMENT: Testified on HB 80.

DOUG GRIFFIN, Director  
Alcohol Beverage Control Board (ABC Board)  
550 West 7th Avenue, Number 540  
Anchorage, Alaska 99503  
POSITION STATEMENT: Provided information on the fiscal note for  
HB 80.

CINDY CASHEN, Member  
Mothers Against Drunk Drivers (MADD)  
Juneau Chapter  
2114th Street 102  
Juneau, Alaska 99801  
POSITION STATEMENT: Testified in favor of HB 80.

MATT FELIX, Director  
National Council on Alcoholism (NCA)

Juneau Chapter  
3970 North Douglas  
Juneau, Alaska 99801

POSITION STATEMENT: Testified in favor of HB 80.

**ACTION NARRATIVE**

TAPE 01-32, SIDE A  
Number 0001

CHAIR LISA MURKOWSKI called the House Labor and Commerce Standing Committee meeting to order at 3:20 p.m. Those present at the call to order included Representatives Hayes, Crawford, Kott, and Murkowski. Representatives Halcro, Meyer, and Rokeberg entered as the meeting was in progress.

HB 121-CHARITABLE GIFT ANNUITIES

Number 0165

CHAIR MURKOWSKI announced that the committee would first hear HOUSE BILL NO. 121, "An Act relating to the issuance of qualified charitable gift annuities."

CHAIR MURKOWSKI, speaking as the sponsor HB 121, explained that the bill adopts language used in 30 states regarding qualified charitable gift annuities. This legislation makes it clear that [charitable gift annuities] are not "insurance business," but are exempt from regulation by the Division of Insurance. There are certain notice requirements that have to take place in order to be a qualified charitable gift annuity organization; one is notifying the division that the organization has a qualified charitable gift annuity plan.

Number 0243

CHAIR MURKOWSKI said [notification] has to be given within 90 days of issuing the first qualified gift annuity. [The legislature] is saying that even though the Division of Insurance is not doing the regulating, [the division] still needs to know who is operating a qualified gift plan in the state.

CHAIR MURKOWSKI referred to an article from the newspaper about Providence Health Systems' operating a gift annuities program. This is a contractual relationship between the donor and the charitable institution; an agreement is reached in which an

amount is gifted to an [institution] and the charity will give the [institution] a fixed annuity over a lifetime period. Based on age and whether payout begins now or is deferred, the amount received will vary somewhat, she explained.

Number 0361

CHAIR MURKOWSKI referred to a handout that describes how charitable gift annuities work. She said Jerome Selby from Providence Alaska Foundation had contacted her and indicated that there are several entities in the state operating these plans; what "they" are seeking through this legislation is recognition of how exemptions are treated through the Division of Insurance.

Number 0539

FRANK MINTON, Vice President, American Council of Gift Annuities, via teleconference, said he is a volunteer for this organization, and is president of Plan Giving Services, a consulting firm that works with charities regarding gift annuities.

MR. MINTON said the American Council of Gift Annuities concerns itself with charities that issue gift annuities throughout the United States. In this role, he worked with the National Association of Insurance Commissioners in the adoption of the model exemption Act, which was subsequently circulated amongst the states. To date about 30 states have adopted some version of the Act. It enables charities to offer gift annuities with the assurance that it is approved by the state. It allows the state to protect its consumers by having only charities that have been in existence a certain number of years, and have a certain amount of unrestricted assets to issue gift annuities, and it doesn't impose burdensome requirements on the charity.

Number 0635

MR. MINTON said there were a few states, before this circulation, that had adopted more heavy regulations; there are a handful of states, like Alaska, that have not yet addressed the subject of gift annuities. Several of those are also considering the model exemption Act.

CHAIR MURKOWSKI referred to the consumer protection aspect of the bill. To be a qualified charitable gift annuity organization under HB 121, an organization has to have a minimum

of \$300,000 in unrestricted cash or cash equivalents, and must have been in continuous operation for the last three years. She asked if these are standard requirements within the industry that all charitable gift annuities [organizations] have to meet.

Number 0724

MR. MINTON responded that charities have been offering gift annuities for over 100 years. Default on a charitable gift is almost unheard of, he said, and he had no firsthand knowledge of any charity that has ever failed to fulfill its obligations. The practice of nearly all charities is to keep the entire contribution in reserve, and to make the gift annuity payment; then use for charitable purposes, whatever is left (indisc.). He said charities further provide (indisc.) by keeping the contribution in reserve to back the payment. Consumers are further protected because the charity's assets back the annuities. He remarked that this is one of the reasons for requiring the charity to have the minimum amount of unrestricted assets.

MR. MINTON illustrated with an example. He said if someone contributed \$10,000 for a gift annuity with Providence Alaska Foundation, and for whatever reason the entire \$10,000 (indisc.) from making the payment, then Providence would still be obligated to continue making those payments, backed by all of its assets. The annuitant (indisc.) the general creditor of the Providence Alaska Foundation.

Number 0874

REPRESENTATIVE ROKEBERG asked why \$300,000 in unrestricted cash or cash equivalents is required.

MR. MINTON stated that the purpose is so there is a certain amount of unencumbered assets to assure that the charity would be able to make the payments in the event that the reserves are exhausted.

MR. MINTON referred to page 1, AS 21.03.021, lines 11-12 of the bill. He noted that it says "aiding and strengthening educational institutions". He pointed out that the issuers of gift annuities are not just educational institutions, but are other types of charities as well, like hospital institutions such as Providence Alaska Foundation. He suggested changing the word "educational institutions" to "charitable organizations" so there isn't an implied restriction.

Number 1028

JEROME SELBY, Providence Alaska Foundation, Providence Medical Center, said Providence supports the bill and would like to see it adopted because it would do two major things for Alaska. First, it gives a "light of day" test to charitable gift annuities so that things are above board and there is registration with the state. Second, it gives people confidence that when working with an organization, in effect, they know whether it is a legitimate organization because it has the state's seal of approval.

MR. SELBY said while "we" are asking to be regulated, "we're" willing to do this because it's an appropriate level of regulation; it isn't onerous and unreasonable.

Number 1164

REPRESENTATIVE ROKEBERG asked Mr. Selby if he could point the committee to [where it refers to the] regulation in the bill, because it seems to him that the bill refers to the "type size" of a warning. He asked what other steps constitute regulation.

MR. SELBY said in order for an organization to offer the annuities legitimately, it has to notify the state Division of Insurance that it is in the business of offering charitable gift annuities. It has to pass the scrutiny level that an organization is a "501C3." The check by the state is very minimal, but the process of getting registered in the state has value, he remarked.

Number 1245

REPRESENTATIVE ROKEBERG said: Unless there is a[n] authority to create regulation or something, or there is an existing regulatory scheme in place that the Division of Insurance does, ... other than the fact that if the division saw fit to see if their notice provisions were in conformance with the statute, there is no regulation. He asked Mr. Selby if he would change his advertising or marketing of annuities to reflect a state approval if this bill passes.

Number 1285

MR. SELBY responded in a negative way. He said that is not what "we" are seeking. He explained that it would require everyone to make the disclosure statement.

REPRESENTATIVE ROKEBERG asked Mr. Selby if more traditional annuities are bought after the assets are conveyed to the charitable organization.

MR. SELBY referred the question to Jon Calder of Providence Alaska Foundation.

JON CALDER, Providence Alaska Foundation, Providence Medical Center, via teleconference, responded that Providence manages and invests the asset after fulfilling the fiduciary responsibilities. He reiterated that the purpose [of the bill] is to ensure that [entities] are qualified to do this, and have notified the insurance commissioner when it is started.

MR. CALDER mentioned that he had spoken with Robert Lowe from the insurance commission, that "they" fully agree with this and the Charitable Gift Annuities Exemption Model Act ("Model Act"), and that the "Super Model Act" has been approved by the National Association of Insurance Commissioners [NAIC]. It is one of the first things to say that a charitable gift annuity is not really commercial insurance; it's for the purpose of having a donor make a gift and then realize income from that gift.

Number 1423

MR. MINTON added that there are some charities across the country that do reinsure, meaning that upon receiving a contribution for a gift annuity it takes a portion of it and buys an annuity from a licensed insurance company that will cover the obligation. Having done so, [that company] feels the freedom to spend what is left for charitable purposes. The overwhelming majority of charities like Providence self-insure, meaning they reserve the money and keep it in reserve to make the payments from that reserve.

REPRESENTATIVE ROKEBERG asked Mr. Calder if he retains any actuarial consultants to establish these programs.

MR. CALDER responded that Providence's charitable gift annuities go by the rules and regulations of the American Council on Gift Annuities that set the actuarial rate and also govern the formula that is used. He said when he has a gift annuity, Providence Health System goes to the bank and invests the money

by making all of the fiduciary responsibilities to the donor; only after this is the money spent.

Number 1547

MR. MINTON said charities do not issue variable annuities like an insurance company; these are all fixed pure-life annuities. He noted that the gift-annuity rate offered by charities is substantially lower than commercial rates; therefore, gift annuities don't really compete with commercial annuities, but are used by people who want to make a gift. In the process of making the gift, [the organization] gets a deduction, in addition to the life payments.

REPRESENTATIVE ROKEBERG commented that [the annuity] could be at net present value or a calculation that one would actually have a higher rate of return, because of the tax deduction, depending on [a company's] bracket and how it works out.

MR. MINTON replied that typically, if a donor gave \$10,000, the charitable deduction might be in the range of \$4,000, varying on the age of the annuitant and the annuity rate. But somewhere in the range of 40 or 50 percent of the amount contributed would be a charitable deduction. The donor has the satisfaction of making a gift, and is getting a payment lower than what it would get from an insurance company. But it is still getting a payment and a deduction, he explained.

Number 1640

CLAUDIA BIEBER, Alaska Native Heritage Center, via teleconference, said [the center] is a developing organization, and the charitable gift annuities program is a viable part of long-term financial development sustainability for the nonprofit community in Alaska. She spoke in support of the bill.

Number 1679

GLORIA GLOVER, Chief Financial Examiner, Division of Insurance, Department of Community & Economic Development, via teleconference, stated that this bill provides language allowing certain charitable organizations to issue certain kinds of annuities without regulation by the Division of Insurance. She said organizations issuing annuities that do not meet the definition of a qualified charitable gift annuity must have a certificate of authority to operate in Alaska.

MS. GLOVER noted that the Division of Insurance is proposing a bill that includes the charitable gift annuity language from the model bill. She went on to describe the differences. House Bill 121 places the majority of the language in Section 3 of [Title] 21, whereas the [Division of Insurance's] bill places language in Section 89, for miscellaneous provisions. She added that HB 121 addresses the conflict of the exclusion in AS 21.03.021 for the educational institutions, while the [Division of Insurance's] bill does not.

MS. GLOVER remarked that she is concerned with the proposed change to AS 21.03.021 [page 1, line 11 of the bill], changing "educational institution" to "charitable organizations". She explained that it is [the Division of Insurance's] view that the educational institution would continue to be exempt from all insurance regulations, including the charitable gift annuity provision. Therefore, the change may create a problem in enforcing the bill.

Number 1786

CHAIR MURKOWSKI stated that she was not certain why expanding the bill to reference charitable organizations would cause problems.

MS. GLOVER replied that the current language in AS 21.03.021 is clear that it exempts educational institutions completely from Title 21. She said she does not think the language in line 8 would add the requirement for charitable organizations to meet the new notice requirements that HB 121 includes. She thought [educational institutions] would be exempt from even HB 121.

MS. GLOVER continued on pointing out other differences [between HB 121 and the Division of Insurance's bill,] soon to be introduced. One is that HB 121 includes the confidentiality provision that is not in the model. It makes confidential any information received by the division or any penalty that might come out of these provisions.

CHAIR MURKOWSKI asked if Ms. Glover sees that as problematic for the division.

MS. GLOVER responded that she has concerns about the confidentiality that prevents [the] penalty provision, because the other provisions appear to be public information anyway.

Number 1927

MS. GLOVER stated that there has been an amendment proposed for Section 5, line 17, to make the section more clear as to what notice is required. The amendment would say that the notice must confirm compliance with AS 21.03.070 (b) and (c) by removing the word "comply" and adding the words "[confirm] compliance". Amendment 1, 22-LS0258\C.1, Bannister, 3/9/01, read:

Page 4, line 17:  
Delete "comply"  
Insert "confirm compliance"

REPRESENTATIVE ROKEBERG asked if Ms. Glover had said this would be without regulation and would certify the authority to operate.

MS. GLOVER replied that she would agree; this only provides notice to the Division [of Insurance] about the activities occurring. She remarked that the division would not agree to this registration approach.

Number 1994

REPRESENTATIVE ROKEBERG asked if the National Association of Insurance Commissioners (NAIC) or a provision under the insurance code would prohibit mentioning any kind of authority.

MS. GLOVER answered that she doesn't know of any prohibition.

REPRESENTATIVE ROKEBERG suggested that [the committee] amend the bill to say [that an organization] couldn't advertise that it had been certified by the State of Alaska, to not misinform investors and donors; then [for the committee] to create a regulated type of investment vehicle.

CHAIR MURKOWSKI asked Mr. Minton if other states have some kind of disclosure.

Number 2037

MR. MINTON answered that it is common for states to have language stating that this is not backed by any guaranteeing association. He stated the he believes [HB 121] provides for that as well.

REPRESENTATIVE ROKEBERG stated that this is an unregulated certification, and he is concerned that any consumer would find comfort in the fact that this is now regulated, when in fact it isn't.

CHAIR MURKOWSKI remarked that Representative Rokeberg made a good point. She added that it is not entirely clear to what extent the state's notice requirement constitutes anything beyond notice, versus a registration or certification.

Number 2114

MR. MINTON read to the committee language that most states require as a disclosure. He noted that it is a statement from Colorado, but similar language would be found in all states that have adopted this model Act. He read:

This annuity is not issued by an insurance company nor regulated by the Colorado Division of Insurance and is not protected by any state guarantee plan or protective associations.

CHAIR MURKOWSKI said that is very similar to the disclosure [language] on page 2, lines 8-11, which reads in part: "not an insurance policy in this state, is not subject to regulation by the division, and is not protected by the Alaska Life and Health Insurance Guarantee Association".

REPRESENTATIVE ROKEBERG clarified that some type of prohibition in utilizing any type of certification in the form of advertising to the public is needed. It clearly states [in the bill] that the contract would say it is not subject to regulation by the division, he pointed out.

CHAIR MURKOWSKI asked Representative Rokeberg if his point would be, for instance, that Providence Alaska Foundation, on an advertisement, wouldn't be able to say, "Certified by the State of Alaska."

REPRESENTATIVE ROKEBERG answered affirmatively. He asked Ms. Glover if the director or anybody in her division looked at the current practice of the sale of annuities, and whether there is concurrence with the statute now.

Number 2207

MS. GLOVER responded that [the Division of Insurance] has not taken an active role in reviewing these kinds of annuities. She explained that whenever it receives questions regarding whether these can be issued in Alaska, [the Division of Insurance] has responded that those entities must be licensed as annuity insurance companies in order to operate here.

REPRESENTATIVE ROKEBERG stated that if [entities] are marketing and are self-insured, then they are marketing annuities, and should be conforming with [Alaskan] statutes.

MS. GLOVER responded that she does not disagree.

CHAIR MURKOWSKI, referring to Amendment 1, stated that the clarifying language that's attached [notifies] the division that there's been notice to the donor.

REPRESENTATIVE HALCRO made a motion to adopt Amendment 1. There being no objection, Amendment 1 was adopted.

Number 2294

REPRESENTATIVE ROKEBERG made a motion to adopt conceptual Amendment 2 that would prohibit [a company from using the state certification] in marketing or advertising.

REPRESENTATIVE HALCRO suggested prohibiting the use of state certification as a marketing tool for some kind of a guarantee. He added that on the other side, the organization should have the ability to say, "Yes, we are registered with the state."

REPRESENTATIVE ROKEBERG said not in the advertising.

REPRESENTATIVE HALCRO agreed, but said if [an organization] is going to participate in one of these programs, it will certainly want some reassurances.

REPRESENTATIVE ROKEBERG remarked that these are not subject to regulation by [the Division of Insurance]. Also, there shouldn't be any kind of comfort for the investor that there is a state regulation, because there isn't any.

REPRESENTATIVE HALCRO replied that he understands, but passing this legislation basically places an approval stamp stating that it is all right to do this; the average citizen is going to want some kind of reassurance that this is all right.

REPRESENTATIVE ROKEBERG remarked that [the committee] shouldn't pass the bill, then.

Number 2374

CHAIR MURKOWSKI asked Mr. Selby if this were passed, would [Providence Medical Center] change advertising to indicate registration with the state.

MR. SELBY answered that [Providence Medical Center] wouldn't change what it was doing; it already has the disclaimer language that states that it is not regulated by the State of Alaska. He remarked that Representative Rokeberg has a legitimate concern that somehow folks might try to imply that they are backed by the State of Alaska. That's counter to the purpose of exempting these folks out in the first place, he said.

CHAIR MURKOWSKI remarked that she appreciates what Representative Rokeberg is saying and thinks that it is fair to have some type of prohibition on the advertising component. This is [just] a registration process with the [Division of Insurance].

TAPE 01-32, SIDE B  
Number 2481

CHAIR MURKOWSKI announced that there being no objection [to conceptual Amendment 2], it was adopted.

Number 2466

REPRESENTATIVE ROKEBERG made a motion to adopt conceptual Amendment 3 striking "may not be smaller" and inserting the words "shall be larger" [from Section. 3, line 13].

CHAIR MURKOWSKI asked if he just wants it to be apparent.

REPRESENTATIVE ROKEBERG agreed that he just wants it to be apparent. He said it should be bold, so people make sure to read it.

REPRESENTATIVE HALCRO stated that in his business there are certain requirements; for instance when using logos, it has to be a [certain] percentage [size] so the logo is visible and is standard. He suggested that it could be applied, for example, to say it has to constitute at least 5 percent of the total ad space.

CHAIR MURKOWSKI remarked that this doesn't refer to an advertising context, but to the document.

REPRESENTATIVE HALCRO clarified that it depends on how big the document is; it probably needs to be a decent-sized type.

CHAIR MURKOWSKI asked Ms. Glover if [the Division of Insurance] has a standard for disclosure requirements.

Number 2351

MS. GLOVER answered that [the Division of Insurance] does review and approve policy language; however, she is not aware of any standard requirements for notices.

CHAIR MURKOWSKI said she has no problem with the language stating "shall be larger and in bold type," instead of "may not be smaller".

Number 2255

REPRESENTATIVE KOTT asked Providence [Medical Center] what is currently being done.

MR. CALDER responded that the notice in their documents is the same type size as the rest of the document. He said he would be happy, however, to have it larger and in bolder type.

Number 2146

CHAIR MURKOWSKI announced that there being no objection to conceptual Amendment 3, it was adopted.

Number 2134

REPRESENTATIVE CRAWFORD made a motion to adopt conceptual Amendment 4. He referred to AS 21.03.070, subsection (b), which reads:

When entering into an agreement for a qualified charitable gift annuity, the charitable organization shall disclose to the donor in writing in the agreement that a qualified charitable gift annuity is not an insurance policy in this state, is not subject to regulation by the division, and is not protected by

the Alaska Life Health Insurance Guaranty Association established under [AS 21.79.040].

REPRESENTATIVE CRAWFORD stated that [a charitable gift annuity] is not protected or under oversight by anybody, and Colorado's language states this as well. He added that this might be a good disclosure [for Alaska to use].

CHAIR MURKOWSKI said it was her understanding, when Mr. Minton read the Colorado language, that it mirrored this.

CHAIR MURKOWSKI clarified that [a charitable gift annuity] may not be protected by the Alaska Life and Health Insurance Guaranty, but there is an underlying assumption [in the Colorado language] that it could be protected by something. She suggested that the committee take that language and adapt it to Alaska. She asked Mr. Minton if he would agree.

MR. MINTON replied that he thinks substantively it is the same and that the existing language [in subsection (b)] could be a little more inclusive.

CHAIR MURKOWSKI asked Mr. Minton if subsection (b) is the NAIC language.

MR. MINTON responded that it is the paragraph from the NAIC model statute. He remarked that the state is adopting this model statute to come up with its own disclosure language. He added that he had read Colorado's language but that all of the disclosure language is substantially the same and only varies a little bit from state to state.

Number 1968

MS. GLOVER stated that the [NAIC] model says:

The charitable organization shall disclose to the donor in writing in that annuity agreement that a qualified charitable gift annuity is not insurance under the laws of this state and is not subject to regulation by the insurance commissioner or protected by an insurance guaranty association.

CHAIR MURKOWSKI remarked that it is pretty much what is said in subsection (b). She asked Mr. Selby and Mr. Calder if they had any comment on this.

MR. SELBY replied no, that he thinks it is fine. He stated that he would agree that if it stated, "regulation by the division", some folks might not understand that it's the Alaska Division of Insurance. He suggested that it would be clearer if it said "regulation by the Alaska Division of Insurance". He added that the statement "not protected by the Alaska Life Health Insurance Guaranty Association established under [AS 21.79.040]" leaves open the question of whether there is anything else that covers it, and he suggested that the committee use lateral language or say that it's not protected by any insurance guaranty, including the Alaska Life Health Insurance Guaranty Association established under AS 21.79.040. He noted that this would not change the intent of the disclosure statement.

CHAIR MURKOWSKI suggested that if it were to say, on line 10, "is not protected by any insurance guaranty including the Alaska Health", it would be clear that there "isn't anything out there."

REPRESENTATIVE ROKEBERG said he thinks that the bill states that it just has to meet the requirements of [subsection (b)], it doesn't have to give them verbatim.

REPRESENTATIVE HALCRO asked Ms. Glover whether there is anybody that people could turn to if there were a dispute.

MS. GLOVER answered that with the way this is written in the exemption, [the Division of Insurance] would not have authority to look into any kind of problems.

Number 1723

CHAIR MURKOWSKI announced that there being no objection to Conceptual Amendment 4, "making more clear subsection (b) under [AS.21.03.070]," it was adopted.

Number 1719

REPRESENTATIVE KOTT referred to page 3, lines 9-10, which talks about confidentiality of the information received by [the Division of Insurance]. He remarked that his only concern is if under [subsection (d) on page 2, a person] had issued his or her first annuity and as a potential annuitant wanted to find out if this was really legitimate, [the person's] only recourse would be to go to the [the Division of Insurance]. But, under this provision, [the Division of Insurance] could not provide any

information. He asked if this is standard confidentiality language built into the NIAC model Act.

MS. GLOVER responded that there is not a confidentiality provision in the model. He agreed that [the Division of Insurance] would not be able to provide any information regarding the notice on these types of entities.

Number 1654

REPRESENTATIVE HALCRO asked Ms. Glover if there isn't enough information provided upfront before somebody gets involved.

MS. GLOVER replied that she would have no problem providing the information to [the Division of Insurance].

CHAIR MURKOWSKI stated that the point behind the confidentiality provision was that what one didn't want a case in which someone gives \$10,000 to one organization, and then a second organization, looking for donors, can call up the Division of Insurance and get the donor's name and number, and come knocking on that person's door for more information.

CHAIR MURKOWSKI stated that she is concerned with having information subject to disclosure. She added that by having all of the information in "DRG" confidential, the consumer can't get the information about the charitable organization that has been registered or filed with the Division [of Insurance].

REPRESENTATIVE KOTT stated that he doesn't see where the charitable organization would have to provide a person's name to the division because it is not part of the requirement of the bill.

REPRESENTATIVE ROKEBERG stated that he agrees and thinks that [the committee] could delete [subsection (h), page 3, lines 9-10].

Number 1546

CHAIR MURKOWSKI asked Mr. Minton if he had any comments on the confidentiality clause.

MR. MINTON responded that he thinks it is appropriate for the [Division of Insurance] to disclose to a donor that a given charity has issued its annuities. He added that he does not see this paragraph prohibiting that kind of disclosure.

Number 1513

REPRESENTATIVE KOTT responded that he thinks it does [prohibit that kind of disclosure]. He made a motion to adopt conceptual Amendment 5, to delete page 3, lines 9-10 [subsection (h)].

REPRESENTATIVE ROKEBERG objected and said if the [Division of Insurance] had imposed a civil penalty for the failure to properly notice, [the division] couldn't tell anybody what little activity "they" are doing.

Number 1477

REPRESENTATIVE ROKEBERG withdrew his objection.

REPRESENTATIVE HALCRO added that he didn't know what kind of liability the state would have if the division had information about a particular charity that was operating questionably, and didn't provide that to consumers.

Number 1440

CHAIR MURKOWSKI announced that with no further objection, conceptual Amendment 5 was adopted.

Number 1431

REPRESENTATIVE KOTT made a motion to adopt a conceptual amendment by deleting "educational institutions" on page 1, lines 11-12, and substituting "charitable organizations".

CHAIR MURKOWSKI remarked that when Mr. Minton had brought that up with her it seemed to make sense; however, Ms. Glover has caused her to question what the impact would be. She suggested that this be looked at when [the bill] comes before the House Judiciary Standing Committee.

[Therefore, the amendment was not addressed further.]

Number 1337

REPRESENTATIVE KOTT made a motion to move HB 121 as amended from committee with individual recommendations and the attached zero fiscal note. There being no objection, CSHB 121(L&C) moved from the House Labor and Commerce Standing Committee.

HB 80-LEGAL HOURS FOR SALE OF ALCOHOL

Number 1280

CHAIR MURKOWSKI announced that the committee would next consider HOUSE BILL NO. 80, "An Act relating to the hours during which sale of alcohol and entry on licensed premises is allowed; and providing for an effective date."

Number 1261

DAVID STANCLIFF, Staff to Representative Scott Ogan, Alaska State Legislature, presented HB 80 on behalf of the sponsor. He said there had been discussion about making the hours in the bill compatible with those at the Municipality of Anchorage and other municipalities statewide to avoid a conflict. There was a proposed committee substitute ("CS") drafted to accomplish this.

Number 1190

REPRESENTATIVE HALCRO made a motion to adopt the proposed CS for HB 80, 22-LS0290\C, Ford, 3/8/01, as the work draft. Without opposition, it was adopted as the work draft.

MR. STANCLIFF said there is a lot of pressure on the legislature to address some of the problems that come from alcohol. There are eight measures that have been introduced [this session]. He said Representative Ogan feels that it is wise to address and prevent problems with more programs and higher taxes. House Bill 80 is an effort to achieve that by standardizing bar hours throughout the state. Most of the major municipalities have done this, and it has been done nationally. It works, he said.

Number 1127

MR. STANCLIFF explained that when bars start closing at a reasonable hour, there is a reduction in the problems that occur, especially on our highways and in bar altercations. Presently, the Matanuska-Susitna Borough ("Mat-Su"), parts of the Kenai [Borough], and some of the unorganized areas of the state still have the ability to stay open until 5 a.m. The legislature in the past has established hours of closure between 5 [a.m.] and 8 a.m. In the proposed CS, it suggests closing [bars] at 2 a.m. during the week, and 3 a.m. on the weekends.

MR. STANCLIFF said Representative Ogan's research in riding with the troopers, talking to law enforcement officers, and

[expressed] in a letter from the Alaska Peace Officers Association unanimously supports this legislation. Driving while intoxicated (DWI) and problems with the abuse of alcohol increase as the hours grow later.

MR. STANCLIFF commented that in the Mat-Su, where [bars are] open until 5 [a.m.], there is the temptation for people to migrate from Anchorage to the Mat-Su and drink until closure, and then head back home. He recalled a recent collision in which one driver was heading home from a local bar and collided with another driver; they both happened to be drunk, and one driver was actually in the northbound lane heading south at about 5 a.m.

MR. STANCLIFF explained that the City of Seward has closure hours that are pretty close to 2 a.m. A bar just over that line can stay open [later] and people are encouraged or persuaded to go there.

MR. STANCLIFF said Representative Ogan hopes this bill will be one that can be considered, and that he had tried to hit an hour range that is in line with what most of the other municipal areas have done. He mentioned that there are a number of places around the state that are "dry" and don't sell alcohol in public at all. Representative Ogan wanted to "throw [it] out there," he said, and have the committee consider if it wouldn't be a step in the right direction to try and alleviate some of the problems so the industry and public don't continue to suffer.

Number 0937

REPRESENTATIVE HALCRO asked if Representative Ogan thinks [this bill] is in lieu of doing alcohol taxation and so forth, and that simply changing the hours that alcohol is served is going to solve the problem in this state.

MR. STANCLIFF responded in the negative, saying that [Representative Ogan] realizes that this is going to be an undertaking involving more than just this measure. He relayed that Representative Ogan believes that this is something that has worked in other places, that most of the state has adopted it, that it is good policy, and that it makes sense to have a standardized system throughout the state.

REPRESENTATIVE HALCRO commented that this is a "good first step," and mentioned some recent alcohol-related accidents. He pointed out that in going through some of the high-profile DWI

[cases], they didn't happen at 2 or 3 in the morning, they happened between 6 and 10 at night.

REPRESENTATIVE HALCRO said he was a little concerned about the sponsor statement where it says, "The industry needs to support this bill or risk more stringent measures." He added that [the state] needs more stringent measures than just changing the bar hours.

MR. STANCLIFF said he thought Representative Ogan would agree with that statement; however, Representative Ogan feels that doing things that have a positive outcome all add up in time to less reactive measures that can occur. He said Representative Ogan had stated his bottom line [since he was not present], which Mr. Stancliff put in writing. It read: "I will listen to all of the reasons why 18 hours of public drinking time is not enough, and what good reasons there are to have bars open later than 2 a.m. If I am persuaded, I will reconsider this bill."

Number 0774

REPRESENTATIVE MEYER asked Mr. Stancliff to confirm that Representative Ogan also represents the Wasilla area.

MR. STANCLIFF responded that he represents a small portion.

REPRESENTATIVE MEYER said he admires [Representative Ogan's] courage. He pointed out that there was a letter from the Wasilla City Council [in the packet] opposing the legislation. He said [the council's] argument is that it should be a local decision, not made by the state.

MR. STANCLIFF responded that Representative Ogan understands and is a big supporter of local control; however, when a person is inebriated, he or she doesn't confine the problem to the local area. The local areas collect the revenue but don't share all of the expenses caused [by that person], such as [added expenses to] state troopers, state social workers, and so forth. Representative Ogan feels that even though that is a strong and persuasive argument, the costs are statewide.

Number 0655

REPRESENTATIVE MEYER said [the Wasilla City Council] opposed his own bill that dealt with the distance between bars and churches. He said he supports this initiative and that these [proposed] hours are plenty for being open. He noted that Anchorage's bars

open at 10 a.m. and that the bill has [the bars] opening at 8 a.m., which he said seems early. He asked if that was a compromise, because other communities open at 8 a.m.

MR. STANCLIFF replied that the opening hour wasn't considered [in the bill]. It is 8 a.m., he said, and communities can elect to open later.

REPRESENTATIVE MEYER said the Anchorage Assembly had "tinkered" with the hours, and what the assembly ended up doing was to put a restriction on the bars that ignored the 3 a.m. closing time. The [penalized bars] would then have to close at 12 a.m. or 1 a.m. as a penalty. The assembly thought about making the hour 12 a.m., but when Anchorage went from 5 a.m. to 3 a.m., there was a "rash" of after-hours clubs opening up. He explained that these cause a lot of expense and other problems, maybe worse than the bars staying open until 5 a.m., because of the illegal activities going on such as gambling and prostitution. He said Anchorage still has that problem, but the assembly was afraid that by going to 12 a.m., it would just become more of a problem. He asked if that was considered.

Number 0540

MR. STANCLIFF said it was discussed and it crops up when hours become fewer. It is a judgment call as to when those hours are set; if they are set too early, it exacerbates the problem, which is why Representative Ogan looked at matching up with Anchorage's hours. This is a more comfortable standard than what he had originally suggested.

REPRESENTATIVE KOTT commented that he thinks this is a local-option issue to some extent. He said he doesn't think it will make much of a difference, no matter when bars are open and closed. If one is trying to stop problems on the road, he suggested dropping [the blood alcohol concentration limit] to .04 and being tough on the bar owners. He said these people shouldn't be drinking in Anchorage and then going out to Wasilla and drinking, because the bar owners are to ensure that bar staff do not serve anybody that looks inebriated, and it is against the law. He said he doesn't think changing the bar hours would address the problem, although it might be a small step in the right direction.

Number 0384

MR. STANCLIFF replied that there is a lot of debate around this issue and Representative Ogan feels, based on what he has learned from law enforcement people and others, that this is an incremental step in the right direction. If one or two lives are saved, does that make it worth a sweeping policy decision "down here," he asked. If people soul-search a little, they would probably respond that it is reasonable. This is a tool that the committee will have if the bill is kept active and moves along, he added.

Number 0267

REPRESENTATIVE KOTT asked if there was research or statistical data available that reflects how many of [Alaska's] fatalities due to alcohol have occurred between 3 and 5 in the morning. He said he didn't know if this is really the problem drinking time when fatalities occur.

MR. STANCLIFF responded that he didn't have hard data to present today; however, if the committee wanted to see that type of data, [his office] would try to obtain it. The fact that there are fewer cars on the highway probably means that a person can weave around a bit more and get away with it. He said the peace officers that he spoke with on the Kenai Peninsula, and the ones that Representative Ogan spoke with, said that after 2 a.m., if [the officers] elect to pull someone over that has come out of a bar, there is high likelihood that a DWI will result; it is much more likely than at 10 p.m. or midnight. He said the people staying after 2 a.m., quite often, are there for the wrong reasons.

Number 0032

REPRESENTATIVE HALCRO said Alaska has a tremendous problem with alcohol, so our numbers might "pale" in comparison with other states'. He asked if Mr. Stancliff had looked at other states, and what the most conservative bar-operating hours were.

MR. STANCLIFF responded that he didn't know, but that he did know that there were some states, Utah being one of them ... [ends mid-speech due to tape change].

TAPE 01-33, SIDE A

REPRESENTATIVE HALCRO asked if Representative Ogan would be amenable to changes, because he thinks opening a bar at 8 a.m. is too early.

MR. STANCLIFF replied that Representative Ogan is not trying to penalize the industry, those that serve alcohol responsibly, or those that drink responsibly. He said a number of the municipalities [open] later than 8 a.m., so the sponsor would consider it, if it were the committee's desire.

Number 0117

MIKE LOHMAN, Owner, Wasilla Bar, via teleconference, said in 1996 the City of Wasilla and City of Palmer went through a similar proposal. He said a problem must first be defined to propose a new law. He said his awareness came from the newspaper article addressing DWI and the people coming from Anchorage to the [Mat-Su] valley to drink. He wrote to Representative Ogan and to some Senators addressing his concerns on January 29 [2001].

Number 0185

MR. LOHMAN remarked that on February 27, he sent a petition to Representative Ogan with over 1,500 signatures supporting his letter of opposition. Today, he has another 500 signatures of opposition to send. He hasn't heard back from Representative Ogan, but had heard from Representative Beverly [Masek] and Senator Rick Halford.

MR. LOHMAN said he was upset that Representative Ogan would make such a proposal without talking to the liquor establishments, the city council, the assembly, or the police chief in the valley for input. Statements of generality without specifics cause people to react with good intentions, but with poor results, he remarked.

MR. LOHMAN explained that DWIs have been reduced from the 1996 study due to "our" efforts with good working relationships between the city, police department, bar owners, cab services, and the community itself. As long as alcohol is available, DWIs will occur to some degree. Most alcohol-related accidents are caused by repeat offenders who will drive no matter what the bar hours are.

MR. LOHMAN remarked that he had heard of DWI convictions as high as 12 [for one person. He asked: How can this be? And would closing bars at 2 a.m. change this? He said there is a problem with the system, and it isn't that the bars are open after 2 a.m. Information gathered in 1996 from the retired captain of

the vice division of the Alaska Police Department (APD) show that DWIs don't change relative to bar hours, but are a measure of enforcement. Mr. Loman said he had some disagreements with what Representative Ogan found, from the people he had spoken with.

Number 0330

MR. LOHMAN said restricting hours creates new problems. After-hours clubs appear, and there are quite a few in Anchorage. Such establishments give away liquor, and there are gambling, drugs, and prostitution. There are rumors of an upcoming club in Wasilla, just due to the fact that the paper reported that there is a bill being proposed to reduce [bar] operation hours.

MR. LOHMAN asked an officer that he knows quite well why these clubs are not shut down; the officer said it is very difficult, there is so much red tape, and even when they are [shut down], it is strictly a misdemeanor and [after-hour club owners] can open up the next day. As long as there isn't a major complaint, the police essentially leave them alone.

MR. LOHMAN pointed out that no one takes responsibility for the amount of alcohol consumed at house parties, at after-hours clubs, or in parking lots. Isn't it better to have responsible bar owners, he asked, and if [bar owners] aren't, then deal with them, don't make across-the-board laws that have negative consequences. He said closing at 2 a.m. in Wasilla would create cab shortage problems. In his bar at 2 a.m. there are approximately 200 customers; the police will not be able to keep up with a mass exodus.

Number 0423

MR. LOHMAN reminded the committee that those people are going to want to "slam down" their last drinks just before last call at 2 a.m. When this happens, [patrons] will not always be drunk as they walk out the door, but within five to ten minutes they will be. Drinking after hours in non-controlled environments will definitely increase, he said. Closing at 5 a.m. provides a wind-down period. There are cabs, and the police can keep up with what is actually occurring; the bar owners can handle what they have to control, which is around 20 to 50 customers at 4:30 a.m.

MR. LOHMAN said there is also the "people's rights issue." He said he heard some people laughing when it was commented that

people would be in a bar after 2 a.m. He said "we" don't all work 40 hours a week from 8 a.m. to 5 p.m., and people work swing and graveyard shifts. To tell those people that they can't stop in the bar and have a drink after 2 a.m. is what he characterized as "socialistic at best." As long as [a person] doesn't hurt someone else, and is responsible for what he or she does, there is no reason why he or she can't have a drink; if that person causes a problem, he or she should be dealt with.

MR. LOHMAN emphasized that "we" don't need to change the law, "we" need to address the offenders so they can't hurt someone else. It would be too easy for us to reduce bar hours across the state and turn our heads from the real problem of abuse, at any hour. He urged the committee to leave the decision of bar hour closure to local government. He volunteered to work on a committee to evaluate problems associated with DWIs.

MR. LOHMAN stated that he wouldn't be opposed to a mandatory blood-alcohol-limit test for every customer who was planning on driving. He offered to send the committee the letter he had sent to Representative Ogan, with or without the petitions. There were other people who wanted to testify today, he relayed, but they didn't have time. He commented that he found out today that the committee could be addressed through written testimony.

Number 0668

REPRESENTATIVE HALCRO asked Mr. Lohman where the 1,500 signatures on the petition came from.

MR. LOHMAN said it started at his bar and went all over the valley to different places. He verified that some people drinking in his bar were asked to sign the petition. When asked if he supports an increase in the alcohol tax, he responded affirmatively; however, the numbers look "a little abusive possibly," he commented. And, when asked if he supports the efforts of communities to have jurisdiction to raise their own individual alcohol taxes, he responded affirmatively.

Number 0732

MR. LOHMAN explained that he would like to see local governments be able to handle this. He isn't against controlling drunk driving, and would support any type of legislation to stop it. He pointed out that there had been some high-profile cases that occurred, and [the accidents] did not occur between 2 a.m. and 5 a.m. He said there have been some general comments made, which

upset him, that people leave the valley at 5 a.m. and head to Anchorage, and there are so many drunk drivers that people are afraid to drive. He said if that were the case, the state patrol would be out there with roadblocks catching those people, because they are a "cash cow for the State of Alaska."

MR. LOHMAN reminded the committee that when people come from Anchorage to drink in the [Mat-Su] valley, they forget that there are more people going from the valley to Anchorage for concerts, sporting events, and nightclubs.

Number 0799

REPRESENTATIVE KOTT stated that he was the one who made the comments earlier that Mr. Lohman was referring to. He asked Mr. Lohman if there is an impetus within the industry to create a different level of fine for those bar owners who exceed their authority in providing alcohol to patrons.

MR. LOHMAN responded affirmatively and said he wouldn't have a problem with that. He reiterated his earlier comment that bar staff shouldn't be allowing people to drive when they are intoxicated. He emphasized that [there is a misconception] that those driving intoxicated are all coming from a bar, but they are missing the point. He owns the Wasilla Bar and goes out at 5 a.m. with a garbage can and picks up alcohol containers from the parking lot that people throw out [car] windows. Those don't come out of the bar, he said, and once bars are closed at 2 a.m., people are going to be anywhere they can stop and party. He said the assumption couldn't be made that all drunk drivers come from a bar.

REPRESENTATIVE KOTT said he is not making that assumption, and that the bar owners he knows are responsible and have an idea of how much individuals drink at their bar.

Number 0939

MR. LOHMAN explained that [bar owners] have very stringent requirements. He couldn't say that no one has ever left intoxicated because the criteria [bar owners] are given are not black and white; people can't be forced to take a breathalyzer test, yet, if something like this were mandatory, it would "take the monkey off our back." He said "we" have to make certain that people who leave the bar can walk straight, don't have slurred words, and can look straight ahead with their eyes.

MR. LOHMAN said his bar turns away people, and he has a videotape to monitor what is going on. The people leaving his establishment had better be able to pass the test. His bar has an evening bar check during which the police officers come in; [his bar] also calls them if there is a "situation." He said the police have been dispatched for support, and they work closely together.

Number 1026

MR. LOHMAN, responding to a question about the number of patrons in his bar between 4:30 and 5 a.m., said it is between 20 and 50 [people]. On certain occasions like New Year's Eve, there probably are 200. He pointed out that in Wasilla there was not one DWI on New Year's Eve, and normally there are 20 to 50.

REPRESENTATIVE HAYES asked if the [Wasilla] community has ever voted on reducing the bar hours. He also asked how long local officials are elected for. This is a local-control issue, he said, and his community voted on it. [Fairbanks's] bars were reduced to a 3:30 a.m. [closure time]; he said he didn't agree with that and doesn't agree with this.

MR. LOHMAN replied that [elected officials] are elected every three years. It was voted on in 1996 in Wasilla by the city council and was never up for a community vote.

Number 1140

JOAN DIAMOND, Public Health Representative, via teleconference, said she has been employed for 21 years in public health. She spoke in strong support of the bill; she is familiar with the data that comes from Anchorage in particular, and agrees with what Representative Ogan brought forth regarding the problems that occur when one bar or package store closes and another one stays open later.

Number 1186

MS. DIAMOND said the information from Nome and Fairbanks indicates that this is not just a Southcentral problem, but is much bigger. The other important piece, she emphasized, is that the legislature is responsible for protecting the public's best interest; the responsibility is to the public and to the public roadways, including decreasing the drinking-and-driving disabilities.

MS. DIAMOND referred to when the bar hours were reduced in Anchorage, and said there was a substantial difference from the emergency room [perspective], where she was a nurse at that time.

Number 1256

REPRESENTATIVE HALCRO mentioned that Ms. Diamond had done some fairly substantial work on alcohol and its effects on the community. He asked if there had been any studies done on the migration of those out drinking.

MS. DIAMOND responded that she didn't have any at her disposal.

MARTI GREESON, Executive Director, Mothers Against Drunk Driving (MADD), via teleconference, thanked Representative Ogan for introducing a very common-sense bill. Over the past five years, she said, Alaska has ranked no less than third-highest in our nation for the percentage of traffic deaths caused by alcohol.

MS. GREESON said this is one piece of action that needs to be taken to make a difference in the devastation that is being wreaked upon [Alaska]. Locally and nationally, MADD advocates setting uniform statewide cutoff limits on the sale of alcohol beverages in order to end the practice of bar-hopping to find establishments closing later, in order to have one more drink, with the likelihood of impaired driving as a result.

Number 1349

MS. GREESON remarked that the 8 a.m. opening hour indicates to her that there is a problem around alcohol and that, sadly, [Alaska] has a lot of individuals who are not responsible with alcohol consumption and [subsequent] behavior. She said she is in support of standardized hours.

REPRESENTATIVE HALCRO referred to the fiscal note and said [this legislation] would have a fiscal effect on the ABC Board and on the officers that go out and patrol. He asked Mr. Griffin, since there is a zero fiscal note, what the actual fiscal note could be.

DOUG GRIFFIN, Director, Alcohol Beverage Control Board (ABC Board), via teleconference, said it is a question of the level of enforcement. [The ABC Board] put a zero fiscal note on there because "we" are spread so thin now that having shorter bar hours wouldn't really make a difference. "We" could do a little

more enforcement in [bar] hours, he said, which the language [in the fiscal note] alluded to.

REPRESENTATIVE HALCRO referred to Mr. Lohman's testimony about the gray area regarding regulations and standards that apply to servers. He asked if there is the possibility of clearing up some of those regulations and making the server-training more effective if this bill doesn't go anywhere.

REPRESENTATIVE ROKEBERG indicated that there is a Techniques of Alcohol Management (TAM) bill [coming up].

Number 1504

MR. GRIFFIN replied that the standard is different and the law talks about not serving a "drunken person." [Bar staff] go by physical signs, and this is not the same as a .10 or .08 or some kind of blood-alcohol [test], because a server in a bar doesn't have sophisticated equipment to measure blood alcohol. The visual signs are taught in the [TAM] training, but it is a different standard from what is used for driving under the influence. He said not everyone in a bar drinking is going to drive, so service people take that into account, knowing that a person has another way home, a designated driver, and so forth. Determining whether someone is drunk is somewhat subjective.

MR. GRIFFIN stated that alcohol training is good and he thinks it can be improved; it has made a difference and can be worked on to get people thinking of a bar as a social setting rather than a place where a legal drug is dispensed. He said "we" are going to start, as violations happen for "over-service" and service to underage people, tracking the type of training that the person involved with the infraction had so "we" can start having some standards and accountability for the training out there. He said "we" are going to start looking at the quality of alcohol-server-training programs.

Number 1664

MR. GRIFFIN, responding to a question about the number of investigators in the Anchorage area, answered two. He said less than half of a position is dedicated to making sure that bars close at the appropriate time. He said "we" don't spend a lot of time doing it; much of the enforcement is reactive, based on a complaint. He said "we" rely on the Anchorage Police Department to do that type of legwork.

MR. GRIFFIN, when asked if a bar owner can serve more than one drink at a time, responded that he or she can serve two, or a double, or a mixed drink that has two shots in it.

CINDY CASHEN, Member, Mothers Against Drunk Drivers (MADD) Juneau Chapter, said she is also a victim of drunk driving. On April 19, her father Ladd Macauley, and Martin Richards were killed on the Kenai highway. She thanked Representative Ogan's office for introducing the bill, and said [MADD] in Anchorage endorses the bill.

MS. CASHEN said she, too, would like to see a local municipality be able to do this; however, they haven't and aren't going to do this. She said in representing the victims across Alaska, those who can no longer speak because they have been killed by a drunk driver, and as a victim who lost a family member and loved one, she would like to see the legislature "step up to the plate" and say this isn't right and "we" are going to protect you. She added that she is a recovering alcoholic, and when she was a practicing alcoholic, "we" went bar-hopping and drove - nothing was going to stop them. She said she has friends who are still practicing [alcoholics] and still bar-hop. They do it in Juneau when there is a bar that is open 15 minutes longer; they will stand in line in a liquor store that is open 5 minutes later, she remarked.

Number 1827

MS. CASHEN said understanding the alcoholic mind is a real mystery, but a person will do anything. If that means getting in a car and driving 20 to 40 miles [for a drink], that is normal; however, to a non-alcoholic mind, that is not. That will continue to happen and lives will be lost if this bill doesn't pass.

REPRESENTATIVE HAYES said he is at a loss because it sounds as if whether the bars are open till 5 a.m. or 3 a.m., Ms. Cashen's friends are still doing the same activities. He said to him, he doesn't think that the bar hours are the problem. It involves a bigger issue. He said he understands the alcoholic mind because he has some family members who are alcoholics.

Number 1911

REPRESENTATIVE HAYES commented that the bars used to be open until 5 a.m. in Fairbanks, and said he had closed the bars, but was not drinking. There are other factors. The local community

has officials elected to reflect the views of that local community, he pointed out, and he has a hard time taking away that local control. In Fairbanks, this issue was voted on and the bar hours were restricted to 3:30 a.m., but the community as a whole had to vote on it.

MS. CASHEN agreed with Representative Hayes and said she sees his point; however, there is a big difference between the chronic drunk drinking until 5 a.m. or drinking until 2 a.m. It is less alcohol consumed, and the chances of drunk driving will go down. Mothers Against Drunk Drivers doesn't come out with public policy statements without a lot of investigation. She said she would be more than happy to provide the committee with studies to back this up. She remarked that it sounds nice being able to dance until 5 a.m., but quite a few people who are in the bars between 2 and 5 a.m. are going to try to drive home.

Number 1986

CHAIR MURKOWSKI asked Ms. Cashen to provide what statistical information she has to the committee.

REPRESENTATIVE HALCRO asked Ms. Cashen why she feels communities haven't responded.

MS. CASHEN replied that as with most issues, the bottom line is money. She surmised that [bar owners] feel that they can make more money staying open longer.

REPRESENTATIVE MEYER reverted back to the discussion of the problems with after-hour clubs in Anchorage. He said they are hard to bust and people have a secret code to get in. At least in a bar there is some control before a person gets out in a car; in the after-hours clubs, no one cares. He said that was probably the main reason, when he was on the [Anchorage] Assembly, that "we" didn't change the hours even more, from 3 a.m. to 1 a.m. He asked if MADD has considered the effect that after-hours clubs could have if the bars start closing too early.

Number 2092

MS. CASHEN said she knows of one [after-hours club] in Juneau, and [MADD] is planning on contacting the person to see about working with them to turn it into a good thing. She said all she sees here is a good thing, and the bottom line [of this bill] is that it will save lives. Recently there were six

people hit, four of them killed, up on the Chena Highway near Fairbanks around 5 a.m. this past summer. Bar-hopping does happen, she remarked, and if this crash didn't occur because of if it, there will be [some] others.

MS. CASHEN concluded by saying this bill sends a message to victims across the state. She cautioned that it would break victim's hearts again if the bill were not to pass.

Number 2147

REPRESENTATIVE MEYER said he doesn't disagree with Ms. Cashen because he knows when he used to frequent the bars, as long as they were open, he was going to keep drinking. Luckily, where he lived they closed at 1 a.m. He said for the responsible drinker, this is a good law because it is going to say "you have to stop and go home." For the hard-core alcoholic, however, who drinks uncontrollably and is going to drive and hurt somebody, he isn't sure this is going to stop him or her. An alcoholic is going to go to any extreme to get [alcohol], be it from an after-hours club, a friend's house, or so forth.

Number 2206

MS. CASHEN agreed and said MADD agrees. Nothing is going to stop the chronic drunk driver from drinking and driving, but "we" can do our best to prevent it. Nationally, 80 percent of the drunk drivers are first-time offenders, she said. A lot of them make this mistake, but unfortunately a lot of them still kill. "We" are not dealing with the chronic drunk driver in this situation insomuch as sending a message that drinking and driving isn't acceptable, and that bar-hopping needs to stop.

REPRESENTATIVE KOTT asked if MADD has statistical research showing the number of drunk-driving-related fatalities between 3 and 5 a.m. He also asked if there is any further data available that would suggest that bar owners were prosecuted for serving that person to the extent that he or she was over the limit. He wondered if "we" are tackling the problem at the right end. He asked Ms. Cashen, if [the legislature] could pass any piece of legislation dealing with DWI, whether it would be this bill or one lowering the blood alcohol level to .04. He suggested if the goal is to get people off the road, [the blood alcohol concentration limit] should be lowered to .04 or .02 instead.

Number 2276

MS. CASHEN responded that it is a small piece of the puzzle, but if it saves one life, it is worth it. She said she has seen statistics - not from MADD, but from the state - about the number of crashes occurring at certain hours across the state and on days of the week, which will back up a reason for this bill. [Alaska] is an "alcoholic state," and there is a lot of alcohol abuse going on, much of which comes out in drunk driving. She said this is done in other states, which wouldn't pass this law if it didn't [work].

Number 2330

MATT FELIX, Director, National Council Alcoholism (NCA), Juneau Chapter, said the NCA has over 200 chapters nationwide; the Juneau Chapter was established in 1964. This is his thirtieth year in the field of alcohol and drug abuse, eight of which were spent as the state division director. He said he is fairly familiar with the alcoholism situation in the state, as well as the government statutes, Title 4, and the dispensation and sale [of alcohol].

MR. FELIX explained that this is a "slice of the pie," not a "silver bullet." He said there has been talk about comparing slices and which one is the best in terms of doing something about drunk driving and alcoholism in Alaska. He said it is going to take a package of bills to solve or at least turn this problem around. He said there is data showing that the less accessible alcohol is, the fewer problems there are.

MR. FELIX relayed that there is a lot of data showing that continuous drinking and having access to alcohol over a longer period of time increases the amount of felonies in a given area [such as domestic violence]. About 65 to 70 percent of the felonies in our prison system today are alcohol-related. He explained that there is a greater percentage of people in prison on alcohol-related felonies in our state than in any other.

Number 2443

MR. FELIX said this is "deja vous" for him; he came to the state in the 1970s to head the department of health and social services with the city [of Juneau]. The first month he was here, at 3 a.m., a man ran into a boat on Egan Expressway and killed an individual. All four of the participants in that accident were intoxicated over the legal limit. A month later, in 1977, an individual drank to the "wee hours of the morning" and at 5 a.m. went home and shot his wife and two children. He

said it started a process in Juneau of looking at heavy drinking and late bar hours, and the response over a period of three or four years was to [change] bar hours; presently, it is 1 a.m. during the week, and 3 a.m. on the weekends, he said. "We" feel that it made a great deal of difference, and the police chief, after a year of the bar hours [being reduced], moved one officer from the late-night shift to the day shift because the change had made such a difference.

Number 2467

MR. FELIX pointed out that alcohol is so cheap in this state that it is ridiculous, cheaper than soda and milk by volume. He said there is a .08 [blood-alcohol limit bill] for drunk driving, and there are a lot of bills [this session]. This is wonderful seeing some response from the legislature, he remarked.

TAPE 01-33, SIDE B

Number 2460

MR. FELIX said he teaches a class at the university on alcohol abuse and its history in the state. In at least the first ten years of statehood, the Title 4 statutes were undermined; there are loose laws and a lack of governing of sales of dispensation. For example, there are a lot of intoxicated people being served in both bars and liquor stores. He pointed out that Ms. Cashen's father was killed by a man who staggered into a liquor store. This happens because there is no enforcement.

MR. FELIX commented that the ABC Board is down to three or four statewide enforcement officers, and they don't concentrate on that part, so there is a lack of enforcement. He said in a community the size [of Juneau], where a lot of the sales tax or tax income to the local government comes from both on and off [premises] sales, Title 4 won't be aggressively enforced to restrict the sale [of alcohol].

MR. FELIX said there are a lot of things historically that promote drinking in this state or at least allow heavy drinking. Some of the bills presented this year are trying to patch those holes, and he thinks [HB 80] is just one of them.

Number 2401

MR. FELIX referred to an earlier question. He stated that the only piece of data he knows about that addresses late hours is

that there are "a heck of a lot more" arrests for drunk driving during those late hours in this state than in others. He said he couldn't think of any other state where drunks are running into each other and killing each other in the late hours. Statistically, it takes 200 drunk-driving occurrences to get caught once, but in this state drunk drivers are running into one another. He said he doesn't know what the statistical chances are of that happening, but it has to be into the thousands.

MR. FELIX stated that bar hours are an important piece of this package, and he encouraged the committee to move [the legislation] forward.

REPRESENTATIVE HAYES said it still boils down to, "Juneau made a choice, Juneau decided that 'we' have a problem in our community and as a community, your local officials dealt with it." Fairbanks voted on it as a community to deal with it. Anchorage had a problem and it was dealt with. It is not the state legislature's job to micromanage a local community, which is what local officials are elected for.

Number 2334

MR. FELIX said he would agree on most issues, but not on alcohol sales and abuse issues. [Alaska] has such an outrageous situation, and the communities are small and very political. [Communities] don't have the ability to politically move this kind of legislation forward. He pointed out that Juneau had that ability, but doesn't have the political initiative to enforce Title 4, which refers to the sale and dispensation [of alcohol].

MR. FELIX explained that [Alaska] is the only state that he knows of - and he has testified before Congress on this - that abrogates this particular responsibility to local communities. It is an ABC and state obligation. At least 48 other states have realized that the potential for injury caused by alcohol sales and abuse is so important that the state took it on and backed the enforcement, and substantiated the statutes that regulate it.

REPRESENTATIVE HALCRO said in growing up in Alaska, alcohol is kind of part of the Alaskan "aura." He mentioned some famous Alaskan bars. He said it has been part of Alaska's brief history and culture, more of an attitude up here. He asked Mr.

Felix if people feel that the effects of alcohol are just part of the Alaskan [experience].

Number 2254

MR. FELIX responded "absolutely." The frontier attitude in Alaska is one of the major factors to Alaskans' overindulgence and the consequences resulting from that. He said that attitude came and is substantiated by our lack of doing something about the problem over the years as a state. Historically, "we" made some big mistakes and are going to live with them for a number of years around this problem. When [Alaska] was a territory, the federal government issued a tremendous number of [liquor] licenses, and when [Alaska] became a state, "we" grandfathered those licenses in during the first 10 to 15 years of our history. "We" passed licenses out at a very rapid rate, and at relatively no cost.

MR. FELIX said [Alaska] has an overabundance of sales and accessibility, and an extremely strong liquor lobby during the first 20 years of the state's history, keeping the price low through the lack of taxation. The four main distributors out of Seattle take hundreds of millions of dollars out of this state, selling by volume, not by cost. [Consequently, Alaska] is left with the problems.

Number 2229

MR. FELIX stated that our statutes, attitudes, and mistreatment of this problem over the years have allowed it.

REPRESENTATIVE HALCRO commented that he believes in local control, but the state has not put enough resources behind enforcement. He referred to the ABC Board and said there are two inspectors in Anchorage and three inspectors statewide [overseeing] 1,400 liquor licenses. He asked how liquor laws in this state can be enforced if there are [only] three people tasked with doing the job. He said it is impossible. The approach needs to be comprehensive, and this [legislation] is part of the puzzle, unless the state wants to get tough and start funding additional enforcement officers.

Number 2146

MR. FELIX agreed and said enforcement is prevention; when there is proper enforcement in any given area, there is a reduction in drunk driving, domestic violence, and alcohol-related felonies.

There is a neutered ABC enforcement [Board] in this state, which was done over a long period of time. Without enforcement at the state level and without the political involvement of local politics, there is a situation in which if a person owns a bar or liquor store, the chances of that person getting caught for selling to underage kids are probably "nil." Therefore, a person will take that chance, because it is profitable.

MR. FELIX said one of the [ABC Board] officers was finally placed in Southeast Alaska. In one night, this person went to 13 liquor stores and made 13 arrests. This says that those bars and liquor stores have been serving after hours, and serving kids for a long period of time, lacking the enforcement.

Number 2066

MR. FELIX explained that the state addressed the problem a number of years ago by saying, "Well, if we're not going to fund enforcement at the state level, let's give the cities some money and ... demand that they enforce these laws." He said the wholesale liquor-license fees come to about \$2 million a year and are now funneled to each incorporated municipality with the explicit purpose of enforcing Title 4. Those fees get mixed with other kinds of revenue-sharing fees, go into the city coffers, go to the police departments, and disappear. Everyone has forgotten over the years that this money was for that purpose; [the money] has become expected and is part of the local police department's budget. The obligations tied to those fees are not followed through on.

MR. FELIX commented that Juneau gets \$65,000 [a year], which is one full-time employee (FTE), and Anchorage gets a couple of hundred thousand [dollars], based on population. The state tried for a while to enforce this, but it undermined the ABC [Board] by lack of funding for enforcement officers. He said they then tried to "end-run" to fund local governments through revenue-sharing by funding the wholesale license fees to them; this, too, was undermined over time.

REPRESENTATIVE HALCRO said it seems that when reading about crackdowns or undercover sting operations, usually the funding source is from a grant from the [U.S.] Department of Justice; it doesn't have anything to do with state and local money.

Number 2019

MR. FELIX commented that "we" pay them twice for doing the same job. He urged the committee to understand that this bill is an integral part of a package; it will probably take a lot more legislation this year, and "we" can "straighten this problem out." He said [Alaska] by far has the most hideous situation around alcohol of any state, which he had testified before Congress about; he was flown back to Washington, D.C., because they couldn't understand what was happening up here. The per-capita consumption is off the chart, and the U.S. Senate Health Committee couldn't believe that a [state's population] could be drinking this much: 514 drinks for every man, woman, and child in this state a year. Alaskans drink a gallon more of pure alcohol, [per capita], than the national average. He said "we" know it's true because "we" tax it, and almost every ounce is watched.

Number 1937

REPRESENTATIVE KOTT said the way the statutes are written, outside of the hours of 5 and 8 a.m., many of the communities around the state have implemented their own ordinances and restrict that even further. He said his understanding of this bill, as it relates to Juneau and Anchorage, means that it does nothing; he asked Mr. Felix if that was correct.

MR. FELIX responded affirmatively.

REPRESENTATIVE KOTT said as he looks through the list [on the handout], there are not too many communities that this bill really would affect. He submitted that those communities that have restricted hours of operation for serving liquor wouldn't go the other direction. He said perhaps it would be more effective to place some restriction on establishments that are not bars, for them to close earlier than bars. He said he foresees that some of the problems are with people who come out of a bar, then go to a package store and buy liquor. If those establishments were closed one hour prior to the bars, it would be a much better approach to the problem.

Number 1843

MR. FELIX responded that it is a suggestion that he hadn't thought about in a while; it addresses the same problem that this bill addresses, which is the relationship between availability and the problems it presents. Most research shows that price and availability are the two major factors in per-

capita consumption. He said [Alaska] has the cheapest and most available alcohol in the United States.

REPRESENTATIVE KOTT said he thought [the legislature] had the same debate about price and availability during the tobacco issue, and that [Alaska] is now number three in the nation for per-capita consumption, even after the price was adjusted upwards.

MR. FELIX pointed out that [Alaska] dropped 17 percent among the "price-sensitive groups, the fixed income, elderly, and the teen group," in the use of nicotine the first year after the tax [was implemented], and has stayed down in those groups.

Number 1775

REPRESENTATIVE MEYER asked for clarification that the ABC Board does not have any enforcement power.

MR. FELIX said, "Oh, yes."

REPRESENTATIVE MEYER explained his understanding that [the ABC Board] could issue a notice of violation, but needed to have the police go with them to actually arrest somebody. He asked what the powers of the ABC Board are.

Number 1758

MR. FELIX said [the powers] are outlined in Title 4, which is a set of statutes just for the regulation and dispensation of alcohol. He said [the ABC Board] is limited in actually arresting and taking someone out of the bar.

REPRESENTATIVE MEYER said the Anchorage Assembly found that there were bars that would stay open past 3 [a.m.], and the ABC Board would write a notice of violation; and when the license came up for renewal every two years, "we" would see these notices of violation. He said "we" would see what the problem was and try to deal with it with the establishment rather than [enacting] a law to penalize all bars. He added that 99 percent of bars were doing the right thing. He said those that were trying to stay open past 3 a.m. would be required to close an hour earlier, which "we" found to be very effective because they were being hit in the pocketbook and it gave them an incentive to abide by the law. He said some of them actually went out of business, which is favorable because "you want the bad ones out of business, and [want to] keep the good ones in business."

REPRESENTATIVE MEYER said this, then, gets back to a local issue rather than a state law. He said "we" cannot have enough ABC Board folks to deal with all of the issues.

Number 1675

MR. FELIX replied that this is one of those situations in which local control sounds nice, but doesn't work. The communities that have restricted bar hours did it out of desperation, and it cost a lot of lives to get to that point. He spoke about the role that interpersonal relationships play in influencing local politics.

MR. FELIX said it is not and cannot be effective locally. There are a lot of communities with licenses that are just too "tight-knit" and everybody knows everybody. Local control of a lot of things is a wonderful idea, but when there is a product that has such a potential [to cause] harm to society, then local control is not as effective as it should be, and the state needs to step in for these situations.

REPRESENTATIVE HAYES asked Mr. Stancliff for information on the number of communities in the state with bar hours that will be addressed by this bill, and what the package store hours are for these communities. He said in looking at the [committee handout that shows bar closure hours], it shows that every big community but Kenai and Palmer has addressed this under local control. He asked whether all of the little communities are the problem then.

MR. FELIX responded that they haven't addressed it appropriately; for example, in Fairbanks it is still 3 a.m. He mentioned a young girl who was killed driving to the high school; the driver who killed her drank until 3 a.m. He said he thought 2 a.m. would be a much more reasonable hour. He agreed with Representative Halcro that one of the improvements to the bill would be to have bars opening at 10 a.m. He said if a person is drinking at 8 and 9 a.m., with some exceptions, there is a real problem.

Number 1483

REPRESENTATIVE HAYES stated that the bill says that the bars are to close at 2:30 a.m. Monday through Friday, and pointed out that Fairbanks is [already closing at] 2 a.m. [during the week], and 3:30 a.m. on the weekends. He commented that this bill says

3 a.m. to comply with Anchorage. He stated that the big picture needs to be looked at. He said if people need to leave the bar at 3 a.m., then one still runs into the same problem.

MR. FELIX explained that the issue of opening bars later and closing earlier addresses the availability [of alcohol]. He said to have a really effective bill, bars and liquor stores should open at 10 a.m. and close at 2 a.m., which is what most states do. [HB 80 was held over.]

#### **ADJOURNMENT**

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 6:10 p.m.