

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

March 22, 2001

3:30 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. 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."

- MOVED CSHB 80(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 132

"An Act relating to the possession or distribution of alcohol in a local option area; requiring liquor license applicants to submit fingerprints for the purpose of conducting a criminal history background check, and relating to the use of criminal justice information by the Alcoholic Beverage Control Board; providing for a review of alcohol server education courses by the Alcoholic Beverage Control Board every two years; and providing for an effective date."

- MOVED CSHB 132(L&C) OUT OF COMMITTEE

PREVIOUS ACTION

BILL: HB 80

SHORT TITLE:LEGAL HOURS FOR SALE OF ALCOHOL

SPONSOR(S): REPRESENTATIVE(S)OGAN

Jrn-Date	Jrn-Page	Action
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HOUSE L&C COMMITTEE

-1-

March 22, 2001

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
03/14/01		(H)	Heard & Held MINUTE(L&C)
03/22/01		(H)	L&C AT 3:15 PM CAPITOL 17

BILL: HB 132

SHORT TITLE: LIQUOR LICENSE APPLICANT CHECK/TRAINING
SPONSOR(S): JUDICIARY BY REQUEST

Jrn-Date	Jrn-Page		Action
02/19/01	0365	(H)	READ THE FIRST TIME - REFERRALS
02/19/01	0365	(H)	L&C, JUD, FIN
03/16/01		(H)	L&C AT 3:15 PM CAPITOL 17
03/16/01		(H)	Heard & Held
03/16/01		(H)	MINUTE(L&C)
03/22/01		(H)	L&C AT 3:15 PM CAPITOL 17

WITNESS REGISTER

REPRESENTATIVE SCOTT OGAN
Alaska State Legislature
Capitol Building, Room 108
Juneau, Alaska 99801
POSITION STATEMENT: Sponsor of HB 80.

HOWARD SCAMAN, Secretary
Council on Alcohol Abuse and Public Safety-Alaska, Inc. (CAAPS)
P.O. Box 23007
Juneau, Alaska 99802
POSITION STATEMENT: Testified in support of HB 80.

PAM WATTS, Executive Director
Advisory Board on Alcoholism and Drug Abuse
P.O. Box 110608
Juneau, Alaska 99801
POSITION STATEMENT: Testified on HB 80.

MATT FELIX, Director
National Council on Alcoholism
211 4th Street
Juneau, Alaska 99801
POSITION STATEMENT: Testified on HB 80.

CINDY CASHEN, Representative
Mothers Against Drunk Driving (MADD)
211 4th Street 102
Juneau, Alaska 99801

POSITION STATEMENT: Provided information from MADD to the committee.

ALIVA "STEVE" DUNNAGAN, Lieutenant
Division of Alaska State Troopers
Department of Public Safety
5700 East Tudor Road
Anchorage, Alaska 99507

POSITION STATEMENT: Testified that HB 80 is a piece of the puzzle that should be passed along with other alcohol-related legislation.

GLENN BRADY, President
Silver Gulch Brewery
No address provided
Fairbanks, Alaska

POSITION STATEMENT: Testified on HB 80.

DEAN J. GUANELI, Chief Assistant Attorney General
Legal Services Section-Juneau
Criminal Division
Department of Law
P.O. Box 110300
Juneau, Alaska 99811-0300

POSITION STATEMENT: Testified on HB 113.

DOUG GRIFFIN, Director
Alcoholic Beverage Control Board
Department of Revenue
550 W 7th Avenue, Suite 540
Anchorage, Alaska 99501-3510

POSITION STATEMENT: Testified on HB 132.

BLAIR McCUNE, Deputy Director
Public Defender Agency
Department of Administration
900 West 5th Avenue, Street 200
Anchorage, Alaska 99501-2090

POSITION STATEMENT: Testified on HB 132.

ACTION NARRATIVE

TAPE 01-37, SIDE A

Number 0001

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

HB 80-LEGAL HOURS FOR SALE OF ALCOHOL

Number 0048

CHAIR MURKOWSKI announced that the committee would hear 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." [Before the committee, adopted as a work draft on 3/14/01, was a proposed committee substitute (CS), 22-LS0290\C, Ford, 3/8/01.]

CHAIR MURKOWSKI explained that the committee had received a stack of information regarding HB 80, along with correspondence from Michael T. Lohman, President, M. Lohman Investment Inc., with over 2200 signatures opposing the legislation.

REPRESENTATIVE SCOTT OGAN, Alaska State Legislature, sponsor of HB 80, recognized receipt of the additional signatures. He added that the handout entitled "1998 Alaska Traffic Accidents" from the Alaska Department of Transportation and Public Facilities, October 1999, shows the accidents: starting about 10 p.m., there were 157 accidents; between 12 and 2 a.m., 181; and between 2 and 4 a.m., 143. He said it is anecdotal evidence but it points out that there is a problem later at night. If anyone can tell him what good comes from drinking between 2 a.m. and 5 a.m., other than tavern and bar owners making money, he said he is "all ears."

Number 0385

REPRESENTATIVE OGAN said he has ridden with the troopers in his district numerous times and has seen the driving while intoxicated (DWIs) happen after 2 a.m. He said this bill is a proactive rather than a reactive approach.

REPRESENTATIVE OGAN remarked that the Matanuska-Susitna area ("valley") has been infamous for being the marijuana-growing capital of the state, and now the valley has the "we stay open until 5 a.m." attitude. In the state with the highest per-

capita consumption of alcohol, he said, it sends the message that having the bars open late is condoned by the state.

Number 0601

HOWARD SCAMAN, Secretary, Council on Alcohol Abuse and Public Safety-Alaska, Inc. (CAAPS), via teleconference, said he represents the "old 2-10 coalition," the Anchorage bar hours back in 1981. He said this bill should have passed 18 years ago, but the ball was dropped. He said it is tragic that this has gone on for so long, and Representative Ogan is right in saying that there is no reason to have drinking after 2 a.m. He explained that this bill would discourage excessive drinking.

MR. SCAMAN added that the Council on Alcohol Abuse and Public Safety is officially on record in support of HB 80.

Number 0700

PAM WATTS, Executive Director, Advisory Board on Alcoholism and Drug Abuse, asked the committee to pass HB 80. She said the board believes that current state law that disallows bar owners to sell alcohol between 5 a.m. and 8 a.m. daily contributes to the likelihood of drunk driving between communities with differing hours of operation. A number of communities, she explained, have reduced hours of liquor sales and set 2 a.m. as a closing time. Some residents of these communities who live near areas with less restrictive hours drive to nearby communities to continue drinking until closure, and then drive home, thus posing serious potential danger to other drivers.

MS. WATTS pointed out a recent incident in which two intoxicated drivers, one coming from the Anchorage area and one from Mat-Su, actually crashed into one another.

Number 0817

MS. WATTS stated that the advisory board believes by reducing access to alcohol during the early morning hours, the incidence of DWIs can be reduced; this would make the roadways safer for all who must drive during these hours. She said [the advisory board] believes that the high rate of alcohol-related injuries and fatalities in Alaska warrants every effort to reduce the number of alcohol-impaired drivers on the roads. She would like to see this type of legislation passed into law because it is one way to begin changing community norms. Alaska has the reputation of being "freewheeling" and open, a hard-drinking

state. Until "we" stop focusing only on cleaning up the "wreckage" from these incidents and start focusing on making some changes in community norms, it will be difficult to make positive headway.

REPRESENTATIVE HAYES asked Ms. Watts what other communities she is aware of where a person can drive from one community to another with differing bar hours, other than Anchorage, Palmer, and Kenai.

Number 0896

REPRESENTATIVE OGAN responded that the City of Seward closes its bars at 2 a.m. and there is a bar on the other side of the city limit that stays open until 5 a.m.

REPRESENTATIVE HAYES asked if there were any other examples across the state that could be cited, because according to the information provided by Representative Ogan's office, many of the communities have instituted reduced bar hours on their own. He asked whether HB 80 is an attempt to pass legislation to deal with a local issue in Anchorage or to make a statewide public policy. He commented that it sounds like a local issue.

REPRESENTATIVE OGAN remarked that it would be a statewide issue because it is a statewide law; however, the legislature has to make a policy call. Most of the major municipalities have done it already, he explained, and due to the cities' being so far apart from each other, it is not a problem. The legislature is the local government for the unincorporated areas in the state, and [the legislature] is saying that it is "our" policy call to make.

Number 1040

REPRESENTATIVE KOTT asked Ms. Watts what time of evening that accident occurred.

MS. WATTS responded that it was 3 a.m.

REPRESENTATIVE KOTT asked if the people involved in the collision were both from Anchorage.

Number 1137

MATT FELIX, Director, National Council on Alcoholism, answered that the people coming from Anchorage had all been drinking in a

bar and were heading to the valley to drink more; this information was reported to the state trooper. He clarified that the other driver had been in a bar in the Wasilla area and was also intoxicated. And when asked if the ABC Board had cited the bar owners for serving more than the required limit by law, he responded that he did not know.

REPRESENTATIVE OGAN clarified that both drivers were charged with assault on each other. He cited another case from last winter in which a woman left a Wasilla bar, drove onto a lake, and went through the ice at 5 or 6 a.m. There have been a lot of cases, he remarked.

Number 1314

REPRESENTATIVE HALCRO said the last time this bill was heard the focus was on local control. The City of Wasilla had sent a resolution saying it opposes HB 80; he asked Representative Ogan if he knew why. And he commented that sometimes the good of the whole state needs to be taken into account.

REPRESENTATIVE OGAN said his friends in Wasilla are conservatives and believe in local control; however, if the policy isn't consistent statewide, there are problems.

REPRESENTATIVE HALCRO asked if Representative Ogan had seen the fax from Joan Diamond, Injury Prevention Specialist, Division of Public Health, Department of Health and Social Services, dated March 21, 2001. He referred to a chart showing the number of fatal alcohol-related crashes between 12 and 6 a.m.; he pointed out that 45.4 percent happen during this time period.

REPRESENTATIVE OGAN replied that one should also factor in that bars in Anchorage close much earlier now.

Number 1371

REPRESENTATIVE MEYER said [the Anchorage Assembly] considered changing the bar hours from 3 a.m. on weekends to an earlier time; however, even going from 5 to 3 a.m., [Anchorage] had a rash of after-hours clubs opening up, and there is no control of them. He said [after-hours clubs] are hard to bust because they have secret codes [to get in] and so forth. He asked Representative Ogan if there is concern that more after-hours clubs could open.

Number 1431

REPRESENTATIVE OGAN replied that it is a possibility, although he didn't know how much concern there was.

REPRESENTATIVE MEYER commented that during his days on the Anchorage Assembly a balance was reached by having the bars close at 2 a.m. during the week and 3 a.m. on the weekends. [The situation] was bad when Anchorage's bars were open until 5 a.m., he said.

REPRESENTATIVE OGAN said this would mitigate it somewhat; however, there are always people who, if they want to get drunk, will have the booze that was purchased at a package store earlier. Nonetheless, this would probably cut down on a lot of it and send a message that Alaska isn't the "party state" anymore. The young people are probably the most susceptible to that attitude and mentality, he remarked.

Number 1569

REPRESENTATIVE MEYER pointed out that the other thing discussed [by the Anchorage Assembly] was how early the 8 a.m. bar opening time was. In Anchorage, he said, it is 10 a.m., and he asked if that would be an acceptable amendment.

REPRESENTATIVE OGAN stated that he wasn't aware that it was different and deferred the decision to the committee. He added that he didn't think there was much business in bars at 8 a.m.

Number 1636

CINDY CASHEN, Representative, Mothers Against Drunk Driving (MADD), stated that she is a victim of drunk driving. On April 19 [2000] a drunk driver in the Anchorage area killed her father. She had some information from Charley Fannon, Chief of Police, Wasilla.

MS. CASHEN explained that the information from the City of Wasilla shows people traveling between Anchorage and Wasilla; those are the numbers within the municipality of Wasilla, she pointed out, referring to the committee's handout.

REPRESENTATIVE HALCRO pointed out that the handout shows the second-highest arrest total comes from Anchorage, and he asked if those are arrests made by the Wasilla Police Department.

MS. CASHEN answered affirmatively.

REPRESENTATIVE HALCRO followed up by asking if these DWI incidents are as a result of people traveling back and forth.

MS. CASHEN again answered affirmatively.

Number 1733

MR. FELIX commented on the odds of two intoxicated people running into one another. The odds would be [astronomically high], he said, and it takes 201 times of driving drunk for a person to get his or her first DWI. He pointed out that in the Anchorage Daily News today there was an article about a woman sentenced for fatally injuring another woman early in the morning in Anchorage, and both were intoxicated. The woman received a minimal sentence for creating a fatality because both occupants had been intoxicated.

MR. FELIX said this bill will set a standard in the state, one that has been needed since statehood: that [Alaska] will not put up with the "carnage" and the outrageous cost ensued by alcohol abuse and alcoholism in the state, and paying \$41,000 to keep a person in prison, 60 percent of whom are there for alcohol-related felonies. He encouraged the committee to move the bill forward. Regarding the issue of local control, he said the state is the governing authority in unincorporated areas to set a standard.

Number 1856

MR. FELIX commented that if nothing else, the standard for the state would have been set; [the law] will hold the existing municipalities to that standard, and keep them from reversing it. He said a local issue has local politics, and if [the legislature] sets a standard, local municipalities will see how the state feels about issue.

ALVIA "STEVE" DUNNAGAN, Lieutenant, Division of Alaska State Troopers, Department of Public Safety, via teleconference, said he would like to give the committee some firsthand knowledge. He was stationed in Palmer and arrested many drunk drivers from Anchorage who were using the bars in Palmer and Wasilla after those in Anchorage closed. He said [troopers] used to wait for them to come across the flats after 2 a.m., and when there was a visible traffic increase. This bill, he said, would make bar closure hours consistent across the state and would go a long

way to help reduce the number of traffic accidents and DWIs on the highways.

Number 1924

LIEUTENANT DUNNAGAN said four or five years ago, Fairbanks drafted an ordinance and began closing the bars earlier than the state law; and there was a decrease in the number of drunk drivers being arrested. On the other hand, people would leave the Fairbanks city limit and travel to bars outside the borough that were still open until 5 a.m., so there were still some serious accidents that occurred at 4, 5, and 6 a.m.

LIEUTENANT DUNNAGAN reiterated that this would go a long way to reducing those accidents. It is not a "magic pill" or an end to all of the problems, he explained, but it is a piece of the puzzle that should be assessed along with all of the other alcohol-related legislation.

REPRESENTATIVE HAYES said now that the Fairbanks North Star Borough has instituted a borough-wide bar closure time, a person couldn't drive to another part to get alcohol. He said all the testimony heard was about Anchorage, Mat-Su, and Seward, and that he is having a problem instituting a statewide law when the issue is with one area of the state.

Number 2028

LIEUTENANT DUNNAGAN suggested that if a person wanted to leave Fairbanks or the surrounding area and drive to Nenana only 50 miles away, a person could go there and hang out until 5 a.m. He said if a bar closed at 2 a.m., a person could be in Nenana by 3 a.m. There are still those places where it could happen, he said; for instance, people in Salcha could drive to Delta.

Number 2046

GLENN BRADY, President, Silver Gulch Brewery, stated that although he doesn't own a dispensary license he feels compelled to address some issues that have not been brought up. This is a local option, he said, and needs to be made at that level to be receptive to the residents of those areas. And regarding the statements about the fact that Alaska is the "party till 5 in the morning, mayhem sort of place," Mr. Brady said he was born and raised during those times. To say that times are the same now is a vast misrepresentation of the real situation. Alaska now has some of the most stringent alcohol legislation in the

country. And regarding the enforcement of existing laws, he said it is already illegal for a licensed establishment to serve an intoxicated person.

MR. BRADY said either "we" are not enforcing existing laws or the problem is not the licensed establishment. He added: With the possibility of the gas line and shift work and so forth, what does one do? He said it seems that [the bill] is trying to punish legitimate consumers of alcohol as a result of an irresponsible few.

Number 2186

REPRESENTATIVE HALCRO pointed out that Mr. Brady had said that possibly the focus should be on enforcing existing laws. He said with any type of law on the books, more could be achieved by practicing prevention. This bill, by limiting bar hours, would do that. There was testimony last week from a man who said that his bar normally has 200 people still there at 2 a.m., and by 4:30 a.m. it is down to 20 or 50 people. He said those 200 people are there at 2 a.m. because they know they have another three hours to drink. If the bar closed at 2 a.m., [the bar owner] wouldn't have 200 people there at that time.

Number 2230

REPRESENTATIVE HALCRO stated that Representative Ogan and others are taking a proactive approach trying to prevent tragedies, and this is the first time he's seen actual data from both the Wasilla Police Department and the state Department of Transportation and Public Facilities that make a correlation between drinking late in the evening and alcohol-related incidents. Normally, "we" had all figured that it was just anecdotal information and testimony. He asked Mr. Brady if he agreed that the legislature should be proactive, in the hope of preventing some of these tragedies.

MR. BRADY commented that he agrees with the concept; however, there are laws on the books now that are either not enforceable or [are flawed]. If this remains a local-option issue, he said, wouldn't it be reasonable for Wasilla to elect to close its bars earlier as a result of its population wanted to address the problem?

REPRESENTATIVE HALCRO explained that he didn't mean to imply that there were unnecessary statutes on the books. What he is saying is that there are currently laws dealing with DWIs;

however, it comes down to manpower for enforcement. In addition, he said, [the state] can avoid the cost of prosecution and the social costs like DWI accidents by practicing prevention. Regarding Mr. Brady's comments about local control, he said he would agree to a certain extent; here there is a situation in which Wasilla has a "carrot" out there for all of the drinkers that want to continue drinking in Anchorage to get on the highway and go to Wasilla. He said [Wasilla] is attracting a crowd out there and impacting the rest of the community, and even impacting Anchorage by having bar hours until 5 a.m.; they also are impacting the troopers and other public safety functions that the state provides. He said [the state] is feeling the effects of their more liberal bar hours and have a responsibility to address that if it isn't addressed locally.

Number 2269

MR. BRADY responded that he has a hard time hearing that it is an "imposition" on the state troopers, because that is their function. Again, he returned to the question of whether any licensed establishments were cited as a result of these accidents; by existing laws, they could have been cited and could lose their livelihood as a result of this. He said this is not the way to address them. What is the problem? It is the few irresponsible users who will continue to be a problem regardless of what legislation is on the books.

CHAIR MURKOWSKI announced that public testimony was officially closed.

Number 2400

REPRESENTATIVE CRAWFORD stated that what is presently being done isn't working, and if this [legislation] saves lives, he is in agreement. Wasilla is attracting drunk drivers on the road by staying open longer. As to the local control issue, he said if people had not taken a stand nationally, there would still be segregated schools in the South. He emphasized the need to pass laws for the greater good.

REPRESENTATIVE HAYES followed up on some information he had requested regarding closing times of package stores.

CHAIR MURKOWSKI stated that nothing had been received, and that she wasn't sure who had been asked for that information.

MR. FELIX stated that Doug Griffen had been asked.

TAPE 01-37, SIDE B
Number 2450

REPRESENTATIVE HALCRO said there is a lot of legislation this year, and there isn't one "silver bullet"; this needs to be a comprehensive approach. He mentioned the statistics given to the committee, and specifically those given by the Wasilla Police Department, which show that 45 percent of all the DWI arrests during the second quarter of 1997 and 1998 were of people who didn't live in the area. And in addition to the Department of Transportation and Public Facilities' figures, a high percentage of those happened between 12 a.m. and 4 a.m. It is no longer a guessing [game] as to whether it might be causing a problem. The numbers show that there is a problem, and it is [the legislature's] responsibility to take preventive measures.

Number 2399

REPRESENTATIVE HALCRO referred to the question about whether the bars were issued citations. He offered that with three ABC inspectors for 1,400 licenses statewide, "we" are probably not citing all of the bars that need to be cited. The whole state is going to benefit from this, he said, and Anchorage would benefit from not having the traffic flow out to Wasilla until 5 a.m. He said he is in support of the bill.

Number 2351

CHAIR MURKOWSKI reminded members that the proposed CS had been adopted previously, and the hours [contained in the proposed CS] conform to those in the Anchorage area: 3 a.m. closure on the weekend, and 2:30 a.m. during the week.

REPRESENTATIVE KOTT cautioned members on the data presented from the Wasilla Police Department because it doesn't indicate when the arrests occurred. And he suggested that when looking at the time span from June to January [on the committee's handout], referring to the 19 men and 5 women arrested who were Anchorage residents, these had occurred while coming home from a fishing trip. He said it would be clearer if there were convincing evidence that the arrests occurred between the hours of 3 and 5 a.m.; however, that data isn't contained in the document.

Number 2284

REPRESENTATIVE HAYES stated that in looking at the data and in hearing the testimony, this sounds like an "Anchorage-area-type problem," and to impose a law across the state that addresses one area's situation is problematic. He said the committee saw a sample of the bar closure hours from a handout entitled "Cities That Have Adopted Ordinances Under AS 04.16.010 to Restrict Hours of Sale," and a lot of the big communities did change their bar hours. He recalled that Mr. Felix testified that this would help communities because they don't have the political will to make these changes; however, Anchorage, Fairbanks, Juneau, Ketchikan, Nome, and the North Slope have made these changes. He said he doesn't feel that the argument is that strong and it is a local-control issue.

Number 2249

REPRESENTATIVE HAYES offered Amendment 1, 22-LS0290\A.1, Ford, 3/22/01, which reads [although the amendment was drafted for the original bill, it was being applied to the proposed CS]:

Page 1, lines 6 - 7:

Delete "alcoholic beverage on premises licensed under this title between the hours of 2:00 [5:00] a.m. and 8:00 a.m. each day."

Insert "alcoholic beverage on premises licensed under this title between the hours of

(1) 3:30 [5:00] a.m. and 8:00 a.m. on Saturday or Sunday; and

(2) 2:00 a.m. and 8:00 a.m. on every other day of the week [EACH DAY]."

Page 1, lines 10 - 11:

Delete "alcoholic beverages on the licensed premises between the hours of 2:00 [5:00] a.m. and 8:00 a.m. each day."

Insert "alcoholic beverages on the licensed premises between the hours of

(1) 3:30 [5:00] a.m. and 8:00 a.m. on Saturday or Sunday; and

(2) 2:00 a.m. and 8:00 a.m. on every other day of the week [EACH DAY]."

Page 1, line 14:

Delete "2:00"

Insert "(1) 3:30"

Page 2, line 1:

Delete "each day"
Insert "on Saturday or Sunday; and (2) 2:00 a.m.
and 8:00 a.m. on every other day of the week [EACH
DAY]"

REPRESENTATIVE HAYES explained that the bar hours changed in the Fairbanks North Star Borough because of a drunk driving incident in which a person was seriously injured and subsequently committed suicide. Because of this, he said, the bar closure hours were changed to 2 a.m. on weekdays and 3:30 a.m. on weekends. [Fairbanks] had a borough-wide vote on this issue, and the citizens decided that this is what they wanted, and now this legislation conforms to Anchorage bar hours. He remarked that the whole state isn't tied to the Municipality of Anchorage.

Number 2186

REPRESENTATIVE HALCRO objected to Amendment 1.

REPRESENTATIVE MEYER asked for clarification that the committee has previously adopted the Anchorage bar closure hours, and is now discussing the 10 a.m. bar opening hour.

CHAIR MURKOWSKI responded that the existing statute has the bar opening hours at 8 a.m., and Anchorage bar opening hours are 10 a.m.

REPRESENTATIVE HAYES clarified that Amendment 1 addresses the closing times, not the opening times.

Number 2121

REPRESENTATIVE OGAN stated that he would oppose Amendment 1; however, if the sponsor would support the bill on the floor, he said he would be more "friendly to it." He said he would like to keep the bill as written.

REPRESENTATIVE KOTT offered a conceptual amendment to Amendment 1 to change the bar opening hours from 8 a.m. to 10 a.m.

Number 2080

REPRESENTATIVE HAYES responded that he would be amenable to that.

CHAIR MURKOWSKI explained that the conceptual amendment would change lines 5, 13, and 23 to 10 a.m. There being no objection to the conceptual amendment to Amendment 1, it was adopted.

CHAIR MURKOWSKI asked for a roll call vote on Amendment 1 as amended. Representatives Meyer, Kott, Rokeberg, Crawford, and Hayes voted in favor of the amendment; Representatives Murkowski and Halcro voted in opposition. Therefore, Amendment 1 as amended was adopted by a vote of 5-2.

CHAIR MURKOWSKI noted that with the adoption of Amendment 1, the new hours would be from 10 a.m. to 3:30 a.m. on weekends and 10 a.m. to 2 a.m. during the week.

Number 1966

REPRESENTATIVE KOTT clarified that the hours of operation in Anchorage have been restricted from 2:30 a.m. to 2 a.m.

REPRESENTATIVE MEYER explained that he understood that the bars in Anchorage close at 2 a.m. during the week anyway, so he didn't think it would be a problem.

REPRESENTATIVE OGAN added that bar operation hours in Wasilla now are 8 a.m. to 5 a.m.

Number 1830

CHAIR MURKOWSKI commented that everyone has said that this should be a local option, including the sponsor himself. Even given that, she explained, sometimes the right thing isn't done. She said she had come full circle on the bill, and is now convinced by the data.

REPRESENTATIVE HAYES stated that he is still interested in getting the package store information, because it is relevant to this discussion and to the discussion revolving around reducing the package store hours.

CHAIR MURKOWSKI indicated that Representative Hayes makes a good point and said the committee will ask for that information from the ABC Board. She said hopefully Mr. Griffen would be able to provide that to the House Finance Committee.

REPRESENTATIVE OGAN referred to "Title 10.50.010 (a)," where it explains package stores hours. This is already in state law, he pointed out and they aren't open until 5 a.m.

Number 1702

REPRESENTATIVE HALCRO made a motion to move the CS for HB 80 [Version 22-LS0290\C, Ford, 3/8/01] as amended from committee with individual recommendations and the attached fiscal note. There being no objection, CSHB 80(L&C) moved from the House Labor and Commerce Standing Committee.

HB 132-LIQUOR LICENSE APPLICANT CHECK/TRAINING

Number 1665

CHAIR MURKOWSKI announced that the next order of business would be HOUSE BILL NO. 132, "An Act relating to the possession or distribution of alcohol in a local option area; requiring liquor license applicants to submit fingerprints for the purpose of conducting a criminal history background check, and relating to the use of criminal justice information by the Alcoholic Beverage Control Board; providing for a review of alcohol server education courses by the Alcoholic Beverage Control Board every two years; and providing for an effective date."

Number 1655

REPRESENTATIVE ROKEBERG, speaking as the chair of the House Judiciary Standing Committee, which had sponsored HB 132 by request, offered a proposed committee substitute (CS), version 22-LS0380\J, Ford, 3/20/01. There being no objection, the committee adopted the proposed CS for HB 132 as the working document.

Number 1610

REPRESENTATIVE ROKEBERG explained that in the proposed CS, the 12 liters of wine [corresponds] to the 24 liters in the current statute, and the 6 gallons or more of malt beverage [corresponds] to the 12 gallons in current statute. So, he said, the only change regarding the bootlegging provisions of the bill consists of lowering the limit of distilled spirits from 12 liters to 6 liters. The proposed CS also deletes the 50-air-mile radius [stipulation] from Section 3 of the bill.

Number 1463

DEAN J. GUANELI, Chief Assistant Attorney General, Legal Services Section-Juneau, Criminal Division, Department of Law,

came forward to testify. He said he had spoken with Representative Rokeberg's staff, the Alcoholic Beverage Control (ABC) Board, and the Alaska State Troopers; all groups are in support of the changes. He provided some brief information about why [the changes] make sense.

MR. GUANELI explained that the original HB 132 was written before the state troopers received a large federal grant that will provide more investigators. Initially, there was an attempt to figure out some way to get additional information about bootleggers, he said, and that was where the idea of liquor stores keeping track of people within a 50-mile radius originated. There is less need now for that provision, he commented.

MR. GUANELI reported being told by the ABC Board that package stores are voluntarily cooperating by providing tips on potential bootleggers. "We don't want to destroy that cooperation by imposing what might be an onerous burden on them," he said; therefore, deleting that provision is appropriate.

Number 1481

CHAIR MURKOWSKI asked what would happen if the grant was not continued.

MR. GUANELI expressed hope that it would be continued. "If not, we may be back before the legislature for continued state funding of that," he said. "We'll just have to see."

Number 1460

MR. GUANELI, regarding the other provisions, said beer and wine are not the problem in rural Alaska; it's hard liquor. And so keeping the limits as they exist under current law really makes the most sense. In looking at the recommendations from the Criminal Justice Assessment Commission (C-JAC), he said he thought the specific amounts of the types of beverages reflected a rough equivalence of a certain amount of alcohol. "In other words, I sort of figured that ... the amount of alcohol in 12 liters was comparable to 24 liters of wine, and so cutting everything in half made some sense," he remarked. However, in calculating it this morning, he found that current law allows a person to have a lot more alcohol in hard liquor than in beer and wine, "so cutting the hard liquor in half really does more to equalize all of those types of alcoholic beverages," he said.

Number 1382

MR. GUANELI testified that the United States Postal Service (USPS) also favors cutting the amount of hard liquor. Postal officials have agreed to set up a system to x-ray mail as it goes through the postal service; x-raying only those things that are more than one case would equate to x-raying just large packages, which the USPS doesn't feel would be terribly effective. The [USPS] felt that it was important to cut that limit in half so smaller packages could be x-rayed, in an [attempt] to intercept [those breaking the law].

Number 1321

MR. GUANELI addressed the concern of people being able to have a certain amount of liquor in the home. If there are two adults in a home, he explained, each can possess this amount of liquor, and even cutting the amount of distilled spirits in half, it is still a fair amount of liquor for a couple; if there are more adults in the house, it goes up from there, he said. Cutting the amount in half is not going to burden anybody as a practical matter, he remarked.

Number 1281

MR. GUANELI concluded by saying that for all of the [aforementioned] reasons, this is an appropriate change and "we're" comfortable in supporting the amendments and the bill.

Number 1273

REPRESENTATIVE HAYES asked for clarification that the state would get five new troopers [paid for] with the federal grant. Considering the size of the state, he asked if that would be enough. He stated that while he thinks this bill has merit, he doesn't think [the state] puts enough troopers out on the streets to [accomplish the goal here]. He asked for Mr. Guaneli's opinion.

Number 1246

MR. GUANELI explained that the grant would provide for greater enforcement. The troopers are planning to focus efforts on certain areas where liquor is thought to be coming from, including parts of Anchorage, Bethel, and Kotzebue. "I think

... it's certainly going to be a lot better than what we've had before, and I think we just have to see where it goes," he said.

Number 1199

REPRESENTATIVE CRAWFORD asked how the ABC Board feels about doing a review of alcohol-server education courses every two years rather than every three years. He stated that it seems a little undermanned, and he asked if [the ABC Board] agreed with this level of effort.

Number 1177

MR. GUANELI noted that Mr. Griffin was online to speak to that question.

CHAIR MURKOWSKI asked Mr. Guaneli if he had any comments on either the fingerprinting or the licensing sections of the bill, because the committee didn't hear testimony on those during the last hearing.

MR. GUANELI spoke in support of those sections and said in order to get national criminal history records, the FBI requires fingerprints. Furthermore, there are some licensees who live out of state. Fingerprints aren't wanted from all employees, just the licensees, the corporate officers, and so forth, he said. He stated that he thinks fingerprinting is important for the board's efforts, and he suggested that Mr. Griffin expand upon that.

Number 1104

DOUG GRIFFIN, Director, Alcoholic Beverage Control Board (ABC Board), Department of Revenue, via teleconference, said [the department] thinks it can accommodate the additional review of alcohol server training; it is an important partnership between the board and private groups that provide the training. Over the last couple of years, he said, there have been some improvements, and the additional work would be manageable within the budget. Furthermore, providing oversight to the trainers pays dividends. Mr. Griffin informed the committee that [the department] is planning to keep better statistics about violations and the type of training that the person receiving the violation had.

MR. GRIFFIN turned to the issue of fingerprinting and thanked Representative Rokeberg and the House Judiciary Standing

Committee for including it in this bill. This is similar to a measure that passed the House of Representatives last year, but it didn't make it through the Senate. It is appropriate and necessary to give licensing agencies such as [the ABC Board] the ability to access federal data banks. Public Law 92-544 [allows them to] review fingerprint cards of potential licensees for purposes of doing a more comprehensive criminal background check. In doing so, it takes into account that today's society is more mobile. Furthermore, this would mainly focus on those who reside within the United States, he explained, but outside of Alaska. Mr. Griffin mentioned that there had been a couple of situations in which people applying for a liquor license would not have shown up on the background check, since it currently only involves violations in Alaska. If the board had known of these people's criminal backgrounds, the license would have been denied; however, the board would not have known this information based on the current process. Although there is a nominal charge for a background check through the Department of Public Safety, the additional cost would be passed on to the licensee.

MR. GRIFFIN noted that the [ABC] Board uses its discretion in determining someone's criminal history with regard to giving that person a license. Therefore, just because someone has a criminal background doesn't necessarily disqualify him or her. On the other hand, Mr. Griffin highlighted the importance of the board's having knowledge of someone who would be licensed to serve alcoholic beverages in the state. Mr. Griffin said he feels that the individual selling the alcohol is a big part of the alcohol abuse problems in Alaska. If the board doesn't have access to criminal activity that has that occurred outside the borders of Alaska, the board is hamstrung in trying to do its job. He pointed out that the ABC Board is made up of volunteers who meet on their own time and attempt to serve the interests of the public by making sure that those involved in the alcohol beverage industry are of good character and respectful of the law. Mr. Griffin informed the committee that last year this was widely supported by the Department of Public Safety, and he was sure it remains supportive. This is one of those common-sense preventive steps. Furthermore, this legislation sends a message that the service of alcoholic beverages is taken seriously and that adequate steps will be taken in order to review the criminal history that will be licensed in this endeavor. Mr. Griffin felt that the more hoops a person has to go through for an alcohol license, the more it impresses upon people that this is a serious business in which care and respect should be taken.

MR. GRIFFIN reiterated that prevention saves money. He estimated that it costs tens of thousands of dollars for the state to revoke a license.

Number 0487

REPRESENTATIVE KOTT inquired about the board's process when reviewing and approving an alcohol-server education course.

MR. GRIFFIN responded that [the ABC Board] reviews the materials provided and look to see if the 16 specific items are covered. He said there is a "canned" nationwide course that is customized to address those things that are different about Alaska state law. He added that the course needs to be of an appropriate duration and require a test, and the people who are instructing need to be knowledgeable.

REPRESENTATIVE KOTT asked Mr. Griffin, when reviewing those courses in the past, whether he had made suggestions or changes to improve them, or whether [the courses] have been inline with the established regulations and conditions.

Number 0408

MR. GRIFFIN said the only major thing that [the ABC Board] talks to them about is the customization, making sure that the things unique to Alaska state law are covered. Mainly, he said, the canned course is good and covers how to deal with a customer, how to diplomatically cut someone off, and so forth, which are usually generic.

REPRESENTATIVE KOTT asked how many groups provide the education training course.

MR. GRIFFIN replied that at this time there are basically three major groups: the Techniques of Alcohol Management (TAM) course, which is most widely available and offered through the Cabaret Hotel Restaurant & Retailers Association (CHARR); the so-called "Bar Code," which is offered through the Alaska Hotel and Motel [Association] (AHMA) and the Anchorage Restaurant and Beverage Association (ARBA); and "Tips Training," which is typically provided in-house by a large chain, for example.

Number 0280

REPRESENTATIVE KOTT asked how long it takes Mr. Griffin to review one of these courses.

MR. GRIFFIN said if it is a new course, like Bar Code, it takes three days to go through, and there is discussion back and forth; then for renewal, it would take one to two days per course.

REPRESENTATIVE ROKEBERG asked Mr. Griffin to tell the committee how a limited liability [company] (LLC) can be fingerprinted.

MR. GRIFFIN explained that regulating LLCs is a challenge. He said [the ABC Board] tries to focus on the components of the LLC, because an LLC can consist of a cluster of corporations and there is a lot of dialogue back and forth trying to find out who the key players are within the LLC. Once determined, the board wants to make sure its "net" is cast wide enough to protect the public interest. Obviously, there can be LLCs that have hundreds of people, so some detective work has to be done to find out who really has the authority. Sometimes six or eight people would be fingerprinted, he remarked, if they were key to the alcohol-service aspect of the bill.

TAPE 01-38, SIDE A
Number 0038

MR. NORRIS said alcohol is the biggest problem out in Bush Alaska. One of his troopers working on the Kotzebue [River] told him that when a "stream" of alcohol gets into the community, it turns into a river of family assault, suicides, DWIs, motor vehicle accidents, and homicides. He is in favor of the bill as it is.

MR. NORRIS referred to the five [new state] troopers that will be paid for from the federal grant. He said it is an attempt to be proactive because the current levels just allow [the state] to react to crime.

Number 0174

BLAIR McCUNE, Deputy Director, Public Defender Agency, Department of Administration, via teleconference, said he thinks it is a good idea and he agreed with Mr. Guaneli when he said the bootlegging problems are mostly with hard liquor, rather than wine or beer. He stated that he redid the fiscal note and made a solid estimate of the types and amounts of cases that have to be covered, taking into account the \$1.4 million grant that the Department of Law and the Department of Public Safety will be receiving.

REPRESENTATIVE ROKEBERG asked Mr. McCune if he could ask for part of that grant to help out. He also asked how bootleggers would qualify for a public defender.

MR. McCUNE responded that he hadn't asked Mr. Guaneli directly about public defender services [paid for] through the federal appropriation. In his past experience with federal law and federal grants, they restrict recipients to law enforcement and prosecutors, more than public defenders; he said he would ask, but [public defenders] don't normally get "cut in" on federal funding because of the involvement of federal laws.

Number 0403

MR. McCUNE, addressing the question of bootleggers affording a private attorney, said some can, but the majority can't. In his experience as a public defender in Bethel, the liquor isn't brought in with a container, it is brought in with "knapsacks and boxes," and the people bringing it in don't have a lot of money. He said he didn't know of any "bootlegging kingpins." Certainly, the misery that it causes is spread around; the people who do the bootlegging are not wealthy people and don't have the means to hire an attorney.

REPRESENTATIVE ROKEBERG said he believes that it is entirely unfair for this legislation to be "saddled" with the results of a \$1.4 million grant to the Department of Public Safety; the same conditions apply to the Department of Corrections. He suggested that Mr. McCune "plead" with the administration to get some funding because the fiscal notes will "kill" the bill. If the legal fees can't be received in-kind from a bootlegger, it is going to make it tough to pass this legislation, he remarked.

Number 0598

REPRESENTATIVE HAYES referred to Section 3, and asked what criteria would exclude someone from getting a liquor license.

REPRESENTATIVE ROKEBERG responded that [the ABC Board] is looking for a criminal charge in another state.

MR. GRIFFIN replied that [the board] is looking at alcohol-related things; someone who has a string of DWIs wouldn't be a good candidate to have a liquor license, or someone who has been convicted of assault within the last five years, or someone who has been convicted on a weapons charge, and so forth. [Crimes

that occurred] within the past ten years would be of particular importance. He gave an example of a man who was applying for a liquor license in Alaska, and only because he was involved as an informant for the Anchorage Police Department did the information surface: he had been convicted of kidnapping, selling alcohol without a license, and one other alcohol-related charge in California within the last five years. He said this was found out because [the Anchorage Police Department] did a background check before employing him. If he had gone through the normal Alaska-only background check, this wouldn't have been known.

Number 0801

MR. GRIFFIN, responding to a question about whether someone who had served time for a crime and was rehabilitated would be denied a liquor license, stated that these cases are handled case-by-case; it is one of the more important things that the ABC Board does. It is done in executive session with the person, he said, unless the person doesn't have problem talking about his or her criminal background in a public session. [The ABC Board] takes into account a lot of factors, but if the charge is serious enough, there is a good chance that the board would deny a liquor license for a person even after being convicted and serving his or her time.

MR. GRIFFIN explained that a liquor license is viewed as a privilege, and the board has to take into account the ability of someone to be responsible. [The ABC Board] has to keep the public's safety in mind. He equated it to a person who gets picked up for his or her third or fourth DWI and gets his or her license revoked; he said even after the time has been served, that person still is not going to be issued a license for 10 to 20 years. [Package-store owners] are dispensers of a legal drug, and [the board] wants to take the greatest care to ensure that those owners have the highest character and regard for the law.

Number 0989

REPRESENTATIVE KOTT made a motion to move the CS for HB 132[22-LS0380\J, Ford, 3/20/01] out of committee with individual recommendations and attached fiscal notes. There being no objection, CSHB 132(L&C) was moved from the House Labor and Commerce Standing Committee.

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 5:15 p.m.